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Economic and Social Council

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Committee on Economic, Social and Cultural Rights
Sixty-fourth session

Summary record of the 40th meeting
Held at the Palais des Nations, Geneva, on Monday, 1 October 2018, at 3 p.m.

Chair: Ms. Bras Gomes

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Second periodic report of Turkmenistan

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The meeting was called to order at 3.05 p.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Second periodic report of Turkmenistan (E/C.12/TKM/2; E/C.12/TKM/Q/2 and E/C.12/TKM/Q/2/Add.1)

1. *At the invitation of the Chair, the delegation of Turkmenistan took places at the Committee table.*

2. **Mr. Hajiyev** (Turkmenistan), introducing his country's second periodic report, said that, over the previous seven years, significant progress had been made in public policy and on socioeconomic issues in Turkmenistan. The Government had adopted a revised Constitution with 11 additional articles on human rights and freedoms to align the Constitution with international law. Article 9 of the new Constitution established that the State party recognized the primacy of the universally accepted norms of international law.

3. Since it had last reported to the Committee, Turkmenistan had acceded to the Paris Agreement under the United Nations Framework Convention on Climate Change, the Bern Convention for the Protection of Literary and Artistic Works, the Convention for the Protection of Cultural Property in the Event of Armed Conflict (the Hague Convention) and its 1954 and 1999 protocols, and the Protocol to Eliminate Illicit Trade in Tobacco Products. In addition, new legislation had been adopted and existing legislation had been amended to strengthen economic, social and cultural rights.

4. The Ombudsman Act had entered into force in January 2017; the Ombudsman had been appointed in March 2017 and the Ombudsman's Office had been established subsequently. The Ombudsman's activities complemented those of the existing State mechanisms for the protection of human rights and freedoms.

5. In order to increase the accountability of ministries and government departments in the field of human rights, national action plans on gender equality, children and trafficking in persons were being implemented. When developing those plans, the Government had taken into account the recommendations contained in the previous concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/TKM/CO/1) and its most recent universal periodic review.

6. The Government was working with the United Nations Development Programme (UNDP) and the National Institute for Democracy and Human Rights to implement the national action plan on human rights for 2016–2020. Within that framework, the Government was making efforts to fulfil its obligations in relation to the Sustainable Development Goals. Turkmenistan had officially adopted the Goals in September 2016, and a working group had been established with representatives of relevant ministries and government departments to oversee their implementation. A research and training centre had been established at the International Relations Institute specifically to work on the Sustainable Development Goals. The country's voluntary national review of its implementation of the 2030 Agenda would be presented in 2019.

7. In 2016, Turkmenistan had signed the Partnership Framework for Development for the period 2016–2020 with UNDP, and had reached funding agreements with UNDP, the United Nations Population Fund (UNFPA) and other agencies. At present, over 20 projects, some of which received Government funding, were being carried out in Turkmenistan in cooperation with United Nations agencies.

8. The priorities of the national investment policy were to promote the fundamental modernization of the production sector and to accelerate the development of import-substitution and export-oriented production. Approximately 68 per cent of State investment went to the production sector, the amount having increased twelvefold over the previous decade. The equivalent of approximately US$ 10 million had been invested in implementing the updated national programme for the improvement of social and living conditions in villages, towns and cities for the period to 2020. To date, 257 kindergartens

and 231 schools had been built under the programme, as well as 66 hospitals and 137 clinics and health centres. Sports facilities and stadiums with up to 10,000 seats had also been constructed, as well as numerous theatres, museums and libraries. Eighteen water treatment plants had been built in an effort to improve access to clean drinking water, and over 4,500 kilometres of road had been laid or rebuilt.

9. Over the previous decade, the share of Government revenue coming from taxes had averaged 85 to 88 per cent, with personal income tax contributing 7 or 8 per cent; the number and rate of taxes had not changed since the introduction of the Tax Code in 2004. Approximately 70 per cent of government expenditure went on social policies. Efforts had been made to improve social protection by increasing wages, pensions and maintenance allowances by 10 per cent every year since 2008; inflation had not exceeded 8.5 per cent during that period. Moreover, the Government paid the majority of costs for utilities, including water and gas, either from the State budget or from the income from government enterprises. Veterans of the Second World War, persons with disabilities and members of the armed forces who had served abroad, as well as members of their families, were entitled to free public services under the Social Welfare Code. In addition, over one million square metres of housing had been built over the previous year. As a result of the measures taken to increase and maintain the standard of living, Turkmenistan had been recognized as an upper-middle income country by the World Bank.

10. **Mr. Abashidze** (Country Rapporteur) said that he welcomed the timely submission of the second periodic report. However, the country's most recent core document dated from 2009 and it had been difficult to find data or statistics relevant to the implementation of the Covenant. He would like to have some examples of cases where the Covenant had been invoked in national courts, information on the availability of effective remedies for individuals claiming a violation of their rights under the Covenant, and any statistics on such cases and remedies.

11. With regard to the Ombudsman's Office, he would like to have some information on the submission of candidates for the post of Ombudsman and on the selection process, the funding received by the Office, and steps taken to ensure the Office's compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and its accreditation by the Global Alliance of National Human Rights Institutions. He also wished to know whether the State Concept for the Development of the Judicial System for the period 2017–2021 provided for changes to the appointment and dismissal processes for judges, or whether those processes remained at the discretion of the President.

12. He welcomed the information provided by the delegation in response to the Committee's questions on the maximum available resources, but would appreciate further information on the issues raised in paragraph 4 of the list of issues, including the proportion of the population living below the nationally and internationally defined poverty lines, and the national levels of income inequality. He would also appreciate up-to-date statistical information on household living standards and on inflation-adjusted spending on social priorities, particularly in regard to education.

13. He would like to have further information on the extent to which the residence permit, or internal visa (*propiska*), system was tied to exemption from utility payments and the receipt of social welfare, including whether it was possible to receive such benefits without being registered in the system. Was it true that such benefits were to be discontinued from January 2019 and, if so, why?

14. The Committee had received information that so-called "third generation tests" were still used in employment. Did such discriminatory practices still take place? He would appreciate statistics disaggregated by ethnic group on education, housing and employment. He wished to know if any members of parliament were from ethnic minorities.

15. He welcomed the information provided about women's participation in the labour market, but would appreciate additional information about women in Government and academia, and on steps taken to address harmful social stereotypes about women. He also wished to know how the national action plan on gender equality for 2015–2020 was funded, and what concrete results had been achieved by it.

16. **Mr. Hajiyev** (Turkmenistan) said that the country's data-collection mechanisms had improved over the past seven years and, while the Government had previously submitted statistics to United Nations bodies, it could provide additional information if required.

17. **Ms. Sysoyeva** (Turkmenistan) said that the *propiska* system did not affect the employment of Turkmen citizens, who were able to choose their profession and place of work freely. Regardless of where a citizen was registered, issues related to social protection and welfare were addressed in the place where he or she was resident. Information on individual citizens, including their entitlements, could be transferred between different regions, which allowed citizens registered in one region to work in another. Foreign nationals, stateless persons and non-residents were required to register if they wished to work in Ashgabat. Employers were thereby able to guarantee the provision of housing for employees moving to the capital.

18. Since the population census in December 2012, sweeping changes had been made to the territorial and administrative structure of the country. Existing settlements had been combined, new towns and cities had been created and Ashgabat had been expanded. Owing to the boundary changes, it was not possible to use the census information for comparative purposes. A new census would be carried out in 2022 and work was already being done at the local level to ensure that it would be as reliable as possible, taking into account the boundary changes and labour migration within the country.

19. **Ms. Atajanova** (Turkmenistan) said that the Ombudsman's Office received the necessary support and had a full staff of eight people. In 2018, the Office had submitted its initial report to parliament; the report appeared on the Government's website, which also gave information on the Office's activities. Public awareness of its activities had been raised through newspaper articles and radio and television programmes. The work of the Office included visits to regional offices of the Institute for Democracy and Human Rights and it had also conducted a number of training seminars with civil society organizations.

20. Women accounted for over 20 per cent of members of parliament and were also represented in Cabinet, local government and academia. The national action plan on gender equality contained measures to have more women in leadership positions and increase their representation in government. The plan focused on raising awareness of gender issues, improving the relevant legislation and strengthening the national mechanism for women's rights. In December 2017, in cooperation with UNFPA, a compendium of international instruments on women's rights and relevant domestic legislation had been published and distributed to libraries, universities and the public-service training institution in every region. Under the national plan, the possibility of adopting a law on domestic violence was being explored. The aim was to complete the study on that topic by 2019 and make recommendations for a bill. In addition, a review of legislation on gender sensitivity had been carried out and gender had been discussed in the work being done on a new employment law. Pursuant to a recommendation by the Committee on the Elimination of Discrimination against Women, the provisions against polygamy contained in the Criminal Code had been added to the Family Code. The implementation of the national plan was monitored regularly and adjustments were made as necessary. All the activities under the plan should be completed by 2020.

21. The programme to improve the judicial system provided for judicial training and opportunities for gaining international experience.

22. **Mr. Hajiyev** (Turkmenistan) said that candidates for judicial posts were nominated by their peers; the President merely endorsed the nominations. Three members of parliament were from ethnic minorities, and persons of other ethnicities were employed at the Ministry of Foreign Affairs and other government departments. The President had recently approved the citizenship applications of over 735 stateless persons from a variety of backgrounds.

23. **Ms. Babayeva** (Turkmenistan) said that ethnic minorities were represented in all areas of life. For instance, many of the nearly 39,000 students in higher education were Uzbek, Tatar, Iranian, Kazakh, Azerbaijani, Uighur, Berber, Armenian, Afghan or Ukrainian. Seventy per cent of teaching and administrative staff at the art and music schools were from minorities.

24. **Mr. Hajiyev** (Turkmenistan) said that the agenda of the People's Council was established on the basis of inputs from the general public received by various entities. At its first meeting, the President had reported on achievements since independence. In the early years, additional support for the population, in the form of free gas, electricity, water and other services, had been necessary as the State had been setting up its social structures. However, Turkmenistan had improved its economic situation and was gradually developing a market economy, which implied a change in approach to social benefits. The goal was to lessen the population's dependence on benefits and change its perception of resources and the environment. Other measures to that end included support for agriculture in the form of 99-year leases for tenant farmers and a review of the price of wheat and cotton. As in other countries in the region, farmers were required to allocate 70 per cent of their land to crops selected by the State but could grow what they wished on the remaining 30 per cent. No more than two close relatives could work for the same government department at any given time and public servants could not supervise anyone related to them.

25. **Ms. Atajanova** (Turkmenistan) said that Turkmenistan acknowledged the primacy of universally recognized norms by incorporating them into domestic legislation: international treaties to which it was a party took precedence over national laws. A new parliament had been elected in March, and the President had emphasized the need to develop modern laws that reflected the needs of the times and responded to the country's international commitments.

26. **Mr. Haljanov** (Turkmenistan) said that, contrary to Mr. Abashidze's assertion, the permanent mission in Geneva had submitted an updated core document in January 2016.

27. **Mr. Sadi** said that he wished to know what impact, if any, the Committee's concluding observations on the initial report of Turkmenistan had had on the State party's policies, laws and practices. It would be interesting to know whether the Ombudsman had dealt with any situations related to Covenant rights and, if so, whether its actions had made a difference. Noting that merely having laws banning discrimination was insufficient, he asked whether full gender equality was being pursued in Turkmenistan and to what extent the interpretation of a particular religion had affected how discrimination against women was viewed.

28. **Ms. Shin** (Country Task Force) said that she was not convinced by the argument that census information could not be used for the purposes of comparison because of changes to territorial boundaries. What the Committee was interested in was the extent to which the population enjoyed its economic, social and cultural rights. While she welcomed the news that work had started on the development of a law on domestic violence, it was equally important to address gender stereotyping, which led to a range of discriminatory practices, from dress codes to virginity tests. Accordingly, she wished to know what measures to eliminate negative stereotypes were included in the national action plan on gender equality. It would be useful to know to what extent non-governmental organizations had been involved in the drafting of the State party's report and whether reports that they struggled to be registered were true. Lastly, she would welcome the delegation's comments on anti-corruption efforts, including the adoption of laws, and would like to know whether any officials had ever been sentenced to prison or otherwise punished for corruption.

29. **Mr. Uprimny** said that, the delegation's earlier statement notwithstanding, the fact remained that, under the Constitution, the appointment and removal of judges was a prerogative of the President. Accordingly, he wished to know how the independence of the judiciary could be guaranteed in such a system and whether there were any plans to amend the relevant article of the Constitution. Some of the data provided by the State party, especially the data on infant mortality, differed wildly from the data received from other sources. It would be helpful to know whether the State party had any plans to decriminalize sexual intercourse between consenting same-sex partners and to introduce adequate protection against discrimination on grounds of sexual orientation and gender identity. He wondered what had become of all the funds amassed during the years of high economic growth before the price of gas had fallen, causing the State to cut back on social programmes.

30. **Mr. Abdel-Moneim**, referring to the period 2008–2017, said that he welcomed the significant increase in government expenditure on utilities and housing and community development. However, given that State revenues had more than doubled during the same period, he would like to know why spending on the water supply and public health care had been slashed.

31. **The Chair** asked whether it was true that the Government intended to introduce fees for public goods and services that were currently provided free of charge and whether support would be made available to persons on low incomes in order to allow them to maintain equal access to the goods and services in question. Additional information would be welcome on domestic legislation prohibiting discrimination and on the number of cases of discrimination brought before the Ombudsman and their outcomes. She asked whether the State party intended to ratify the Optional Protocol to the Covenant.

32. **Mr. Abashidze** said that the State party was to be commended for its approach to the Sustainable Development Goals. Domestic legislation should be amended to enable the articles of the Covenant to be invoked before the courts. He asked whether the State party intended to adopt a comprehensive anti-discrimination law in the near future. It would be interesting to hear whether any statistics were available on the number of children with disabilities in mainstream education and whether the Government monitored their situation.

33. **Ms. Atajanova** (Turkmenistan) said that the Committee's recommendations, observations and comments had been carefully studied when designing the national action plans on gender equality, human rights, children and trafficking in persons. In 2017, the Ombudsman had received 40 written and 64 oral complaints regarding housing issues, with those figures rising to 93 and 115 respectively in 2018. The number of oral complaints received relating to labour issues, such as dismissal and access to employment, had risen from 21 in 2017 to 54 in 2018. A very small number of complaints had been received relating to pensions and benefits, including disability benefits.

34. There was no such thing as religious marriage in Turkmenistan, which was a secular State. The minimum age of marriage was 18 years for men and women, although exceptions could be made in cases where parental consent had been given and official authorization obtained. Children attended school from the age of 6 years to the age of 18 years, the age of legal majority.

35. Work was ongoing within schools and public-service training institutions to raise awareness of gender stereotypes and to promote gender equality. The President of Turkmenistan, speaking recently to the General Assembly, had stated that full gender equality was a national priority. Women were not forced to wear Turkmen national dress. A number of workshops on gender equality, gender-based violence and gender stereotypes would be held at the regional level in the near future, in cooperation with UNFPA and the Organization for Security and Cooperation in Europe. The recommendations of the Committee on the Elimination of Discrimination against Women would be disseminated at the grass-roots level, in order to raise awareness and receive feedback in that regard.

36. Representatives of civil society organizations participated directly in the preparation of State party reports to human rights treaty bodies and in working groups set up to design action plans and related legislation on issues such as trafficking in persons. Those organizations also ran shelters for vulnerable members of society. As part of the national action plan on human rights, existing legislation on civil society organizations was currently being reviewed. There were no restrictions on the registration of such organizations in cases where the required documentation had been properly submitted. However, the registration process would be further simplified. Over 120 such organizations had recently been registered. Parliament was working with civil society to promote citizens' participation in decision-making processes.

37. **Mr. Ergeshov** (Turkmenistan) said that patients were actively involved in developing health-care programmes across the country. Since 2005, new criteria had been adopted regarding infant mortality statistics, which would explain the discrepancies between World Bank and domestic figures in that regard.

38. **Mr. Hajiyev** (Turkmenistan) said that all human rights treaty body recommendations were closely studied by each of the government ministries. Historically, women and girls had been free to dress as they pleased and to work in the field of their choice. Turkmen Muslims were followers of a particularly tolerant and open school of Islam. The Committee appeared to have been unduly influenced by a number of stereotypes about life in Turkmenistan.

39. A specialized unit had been set up to tackle corruption and several legislative measures had been taken in that regard. A number of large-scale, highly publicized investigations into allegations of corruption had been carried out, including investigations involving public servants and politicians. In 2018 alone, dozens of criminal cases had been opened regarding corruption in the education sector.

40. Consensual same-sex sexual activity was not a criminal offence in Turkmenistan. However, under the Criminal Code, violent male-on-male sexual assault was illegal. The recommendations regarding non-traditional relationships arising from the May 2018 cycle of the universal periodic review were currently being examined.

41. The Government had invested tens of billions of dollars of public money in the energy sector infrastructure, in order to diversify the economy. Nevertheless, in total, 70 per cent of the national budget was allocated to programmes designed to meet social needs. The issue of the ratification of the Optional Protocol to the Covenant was under consideration. The officials who had decided to cut social benefits had done so without fully understanding the impact of such a move on vulnerable sectors of society. A nominal fee was being introduced for communal and housing services.

42. **Ms. Shin** said that it would be useful to have specific data for the past five years on unemployment and employment rates, disaggregated by sex, urban and rural residence, ethnic origin, age and disability.

43. The Committee would be grateful for clarification regarding the removal of hundreds of Turkmen nationals from Ashgabat owing to their failure to register as residents of the city and the impact of removal on their right to employment.

44. She asked whether the review of existing domestic legislation prohibiting women from engaging in night work and certain other types of work would be completed in the near future and whether that ban would be lifted. Women, both with and without children, wishing to work should be provided with support.

45. She wished to know whether the minimum wage was sufficient to ensure a decent standard of living, whether it was adjusted annually to reflect changes in the price of consumer goods and whether it was enforced throughout the country, including in the informal sector. The delegation should comment on reports that civil servants were required to contribute part of their salaries to the State, and explain whether, for the purpose of applying the principle of equal pay for work of equal value, a system was in place to compare the relative values of different jobs. She would appreciate information on the monitoring of labour conditions, on occupational diseases and accidents, and on how, in the absence of a law on sexual harassment, complaints could be filed and handled appropriately.

46. Noting that all trade unions in the State party operated under the National Trade Union Centre and were de facto State-controlled, she asked whether it was true that persons working for State institutions dared not contest violations of their rights for fear of losing their jobs or income. The delegation should also respond to allegations that State employees were often forced to participate in State-organized mass events and that some employees in that situation had died as a result of working long hours in deplorable conditions. It would be useful to know what was being done to eliminate the practice of forced participation in such events and what measures were being or would be taken to ensure that trade unions could be established and operated without State control or interference. In paragraph 105 of its replies to the list of issues (E/C.12/TKM/Q/2/Add.1), the State party made clear that there were no provisions in domestic legislation on the right to strike and that there had not been a single case of strike action during its entire history as an independent nation. She

wondered whether the lack of strikes was attributable to a fear of the consequences that might arise therefrom.

47. She would be grateful to receive detailed information on social security measures and services, including child allowance, old-age pensions and disability and unemployment benefits. It was not clear, from the information supplied by the State party to date, how much support was provided and what progress had been made in recent years. Lastly, she asked whether the retirement age was different for men and women, and, if so, why.

48. **Ms. Sysoyeva** (Turkmenistan) said that, prior to 2013, it had been illegal, under the Labour Code, for women with children under the age of 3 years or with children with disabilities under the age of 18 years to perform night work, to work overtime, at weekends, on non-working holidays or memorial days, or to engage in shift work. In 2013, in response to recommendations from, among others, the International Labour Organization, amendments had been introduced to bring the Code into line with relevant international norms and standards. Consequently, the aforementioned restrictions on women's labour had been lifted, and there had since been a decrease in the gender pay gap, which currently compared favourably to that found in many other countries.

49. In practice, women frequently made use of their right under domestic law to refuse to work under certain conditions, which had an impact on their salary. Women also more frequently adopted a flexible work schedule than men in order to reconcile their work with their family responsibilities.

50. The Ministry of Labour and Social Protection, in conjunction with the Ministry of Health, had drawn up a list of hazardous occupations in which women's participation was limited or banned. It had been decided that, in future, permission to perform the jobs in question would be granted on the basis of physiological and physical aptitude rather than purely sex-based considerations.

51. Labour inspections were carried out by the State in all regions and cities, and there was a department of the Ministry of Labour and Social Protection devoted to monitoring labour conditions. The Ministry was in the process of developing a system that would enable employees working in unfavourable conditions to claim compensation from their employers. Complaints regarding workplace accidents were resolved promptly and had, in the case of certain fatal accidents in the past, led to the closure of facilities. Investigations were sometimes carried out by experts from the Ministry, who had the power to impose penalties under the Code of Administrative Offences.

52. The minimum wage stood at 715 manat and was adjusted annually in line with the minimum level required for subsistence, which was calculated on the basis of the cost of a consumer basket of goods. From 1 January 2019, pursuant to a presidential decree signed in July 2018, the minimum wage would rise to 790 manat, which equated to around a 10 per cent increase. The decree applied to persons working in all sectors of the economy.

53. Under the same decree, the financial support provided through social security measures and services would also increase by about 10 per cent in 2019. Old-age pensions and disability benefits were calculated using a baseline figure established annually in accordance with the Code of 19 October 2012 on Social Protection of the Population. The State pension was paid out of the State Pension Fund, which was fed by contributions from employers and employees. The State budget for 2019 had been prepared and was due to be presented for adoption imminently. The amount of child allowance to which a woman was entitled depended on how many children she had. The top figure of 1,333 manat was granted to women with five or more children. Women also received 173 manat per child below 3 years of age in January each year. Social security statistics were published periodically on the website of the Ministry of Labour and Social Protection. The pensionable age was set at 57 years for women and 62 years for men, though women with children had the possibility of taking early retirement. There were currently no plans to equalize the pensionable age for men and women.

54. While it was true that the right to strike was not provided for under domestic legislation, there was a special law governing various forms of assembly, including mass events. The purpose of many demonstrations was to air grievances or put forward demands

of a political or economic nature. In Turkmenistan, such grievances were very often settled at an early stage by reconciliation committees, obviating the need for strike action. According to the records of the Supreme Court, no collective dispute cases had ever been brought before the Court. Almost all disputes involved individuals and tended to be prompted by, for example, dissatisfaction over a forced relocation or the reasons given for a dismissal. Figures related to disputes settled by reconciliation committees could be made available if necessary.

55. **Ms. Atajanova** (Turkmenistan) said that the issue of sexual harassment, including in the workplace, would be addressed as part of efforts by a parliamentary working group to draft a new Criminal Code. The group was drawing inspiration from legislation in other States and looking to develop mechanisms for the submission of complaints. Currently, victims of sexual harassment could lodge a complaint with the Ombudsman or with their employer's human resources department.

56. **Mr. Hajiyev** (Turkmenistan) said that the reality of State-organized mass events was different to the image portrayed by some media outlets. Participation in such events was optional, and all necessary medical precautions were taken. The special law governing various forms of assembly had been adopted in 2015 and amended in 2018. After decades of having a one-party system, Turkmenistan needed to be given time to allow its political culture to develop naturally, without the kind of outside interference that had been observed in other countries.

57. **Mr. Dasgupta** (Country Task Force) said that he would welcome a response to paragraph 18 of the list of issues (E/C.12/TKM/Q/2), in which the Committee requested updated information on whether a draft national action plan on children's rights had been finalized under the national action plan on human rights for 2016–2020 and whether it contained specific measures to effectively eliminate child labour and the trafficking of children.

58. With regard to paragraph 17 of the list of issues, he noted that, in paragraph 114 of its replies, the State party mentioned a study which would form the basis for an assessment of the feasibility of developing draft legislation on domestic violence. He asked why a preliminary study was required and why it would ever not be feasible to draft a law penalizing domestic violence.

59. The State party had not given a response to paragraph 19 of the list of issues, in which the Committee requested statistical data on poverty, including on the number of persons under the poverty line, disaggregated by year, sex, ethnic group and urban and rural residence. He would appreciate information on the numbers of people living under the poverty line and in extreme poverty, on the progress that had been achieved in reducing poverty through the implementation of the Millennium Development Goals and on whether there had been a failure to track and analyse trends in poverty reduction.

60. Turning to paragraph 20 of the list of issues, he noted that, in paragraph 117 of its replies, the State party referred to "improved drinking water". He wished to know what was meant by the term and how the quality of the water that it designated compared to internationally accepted standards for what was typically called "safe drinking water".

61. It would be helpful to know the numbers of doctors per 1,000 people in both urban and rural areas and whether there had been any improvement in those figures over the previous five years. He also wished to know whether there was any substance to reports of widespread corruption in the health sector, involving the payment of bribes in exchange for access to expensive treatment or drugs. What measures, if any, were being taken to combat corruption in health care, how many cases had been uncovered as part of anti-corruption initiatives and how many convictions had been handed down in that regard?

62. **Mr. Sadi** asked whether there were any restrictions on the use of insecticides or pesticides, in view of the overwhelming evidence to suggest that such substances posed a carcinogenic risk to humans, and whether any campaigns had been launched to raise public awareness of that risk and of the potentially harmful impact of consuming genetically modified foods.

63. **Ms. Liebenberg** said that the Committee had received reports from non-governmental organizations of properties being demolished and their previous occupiers being moved to substandard, overcrowded housing. With that in mind, she would be grateful for information on any laws governing evictions and, in particular, on whether they provided for prior notice, consultation and the provision of adequate alternative accommodation.

64. **Mr. Windfuhr**, noting that article 69 of the newly revised Constitution of Turkmenistan prohibited all forms of forced and child labour, said that it had presumably been felt that there was a need for such an article; and yet data on the issue of forced and child labour had not been forthcoming. He would appreciate a description of the situation in the State party in that regard and of how the Government planned to implement the aforementioned article. It would also be useful to receive statistics on the employment of persons with disabilities and to hear from the delegation about the main obstacles to the systematic collection of such statistics.

65. Given that Turkmenistan was one of the driest countries on Earth, he would be interested to know the delegation's assessment of the impact of climate change on water availability and quality, and on the agricultural sector in general, in which women accounted for 43 per cent of the labour force.

66. **The Chair** said that she would welcome a detailed description of the State party's housing policies, bearing in mind reports that, in recent years, there had been considerable investment in the construction of grand buildings, many of which were currently unoccupied or underoccupied for reasons including a lack of water and sewerage connections.

67. **Mr. Uprimny** asked how the Government guaranteed the right of persons deprived of their liberty to an adequate standard of living in the face of chronic prison overcrowding.

The meeting rose at 6 p.m.

United Nations E/C.12/2018/SR.41

Economic and Social Council

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Committee on Economic, Social and Cultural Rights
Sixty-fourth session

Summary record of the 41st meeting
Held at the Palais des Nations, Geneva, on Tuesday, 2 October 2018, at 10 a.m.

Chair: Ms. Bras Gomes

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The meeting was called to order at 10 a.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Second periodic report of Turkmenistan (*continued*) (E/C.12/TKM/2; E/C.12/TKM/Q/2 and E/C.12/TKM/Q/2/Add.1)

1. *At the invitation of the Chair, the delegation of Turkmenistan took places at the Committee table.*

2. **Ms. Sysoyeva** (Turkmenistan) said that State expenditure on education had decreased between 2015 and 2017 following the introduction of tuition fees at many higher and further education institutions. Spending on utilities had also dropped since the introduction in 2017 of water meters that limited the amount of water used, thereby capping charges. The reduction in spending on sanitation was due to increased investment from companies working in that sector, which reduced the need for State subsidies.

3. **Mr. Ergeshov** (Turkmenistan) said that, in 2017, the Ministry of Health, the Ministry of Labour and Social Protection, trade unions and other stakeholders had worked together to develop legislation on the early detection of workplace-related illnesses and compensation for workplace accidents. If a person developed a disability as a result of a workplace-related illness, the State provided medicines and treatment free of charge, as well incapacity benefits if the person was unable to work.

4. **Ms. Atajanova** (Turkmenistan) said that the national action plan on children had been adopted in July 2018. In October 2018, the plan would be presented to parliamentary deputies, representatives of the Ministry of Education, the Ministry of Health and the Ministry of Labour and Social Protection, with the participation of children themselves. The Government was working with the United Nations Children's Fund (UNICEF) to develop a road map for the implementation of the plan, which included a comprehensive suite of measures aimed at protecting the best interests of children and contained goals, targets and indicators that were aligned with the Sustainable Development Goals. In 2011, a State programme had been adopted on early childhood development and readiness for school. In 2012, the Government had established a juvenile justice programme based on recommendations from the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities.

5. The Government had adopted a national action plan on trafficking in persons for the period 2016–2018. Following a review of the action plan in August 2018, the authorities had decided to draft anti-trafficking legislation that was in line with international standards. According to information from the Prosecutor General, no cases of child trafficking had been recorded in Turkmenistan.

6. Before drafting legislation criminalizing domestic violence, the Government was awaiting the results of a study intended to determine the scale of the problem in the country. It also intended to examine the legislative practices and law enforcement mechanisms in place in other countries in the region to identify the best course of action. As part of the national action plan on gender equality, the authorities were holding outreach seminars to sensitize the population to the issue. There were already a number of provisions in the Criminal Code that covered assault and rape.

7. **Ms. Sysoyeva** (Turkmenistan) said that the Government had not set a national poverty line. While the most recent survey of household spending dated back to 2011, the State Statistics Committee was working with the World Bank on a project to examine current standards of living; the outcome of that exercise would be published once the data had been collected and processed.

8. **Mr. Hajiyev** (Turkmenistan) said that, in both the Soviet and the post-independence eras, residential properties had frequently been constructed in breach of the legislation in place, and sometimes with the collusion of the local authorities. Under the Housing Code, if land was required for State purposes, residents would be offered a new property or

compensation equal in value to the property earmarked for demolition. If residents were required to vacate their homes in such circumstances, they were provided with temporary accommodation for a period not exceeding three years while their new permanent homes were under construction. In 2016, 1,015 homes had been demolished in Ashgabat and 1,091 properties built to replace them; in 2017, 1,759 had been demolished and 2,225 built in their place; and in the first eight months of 2018, 135 had been demolished and 170 had been built. Reports that people were forced to live on the streets were completely inaccurate; the Government always consulted with families regarding the options available to them prior to the demolition of homes.

9. **Mr. Haljanov** (Turkmenistan) said that the Government intended to examine the feasibility of acceding to International Labour Organization (ILO) Labour Inspection Convention, 1947 (No. 81), with a view to aligning the labour inspection system with international standards. In 2017, an ILO delegation had visited Turkmenistan to examine the country's efforts to prevent all forms of forced labour and discuss steps to improve legislation in that area: the delegation's recommendations had been implemented to the satisfaction of the ILO Committee of Experts on the Application of Conventions and Recommendations. Local and regional employment offices and education authorities were making strenuous efforts to prevent forced labour in the cotton sector, including child labour. On-site inspections were carried out to check the employment contracts of persons found working in fields. It was worth noting that the use of combine harvesters had been increased to reduce the amount of manual labour required. In 2017 and 2018, the Government had purchased 1,200 combine harvesters from Uzbekistan and a further 700 from companies in the United States of America.

10. Turkmenistan had become a full member of ILO and had ratified the Organization's eight fundamental conventions. The Government was currently engaged in consultations with social partners regarding the feasibility of ratifying the ILO Employment Policy Convention, 1964 (No. 122) and Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). It was also developing a plan of action on decent work for the period 2019–2021, with expert assistance from ILO. In November 2018, a technical delegation from the Organization would be visiting Turkmenistan to assist in the development of the plan and consult with stakeholders.

11. **Mr. Hajiyev** (Turkmenistan) said that the Ministry of Labour and Social Protection had an oversight mechanism in place to identify cases of forced labour and make recommendations to local authorities. Reports that the Government was chasing people off the land were simply untrue; 70 per cent of the land used to cultivate cotton and wheat was in private hands. The textile industry had been rebuilt after the country had gained independence, and it was now able to operate independently.

12. **Ms. Sysoyeva** (Turkmenistan) said that under the plan to protect the rights and interests of persons with disabilities, work had been done to detect illnesses and disabilities at an early stage and prevent their progression. A bill was being prepared on government purchasing of goods produced by associations of persons with disabilities and other vulnerable persons. Data for 2017 showed that 76 per cent of people who had sought help from employment offices had secured a job; that figure had increased from 50 per cent in 2016. In January 2016, the Minister of Labour and Social Protection had approved regulations on the provision of housing for persons with disabilities and other vulnerable persons. Since then, consultations had been held with medical experts in order to determine categories of disability depending on the level of impairment. Data collection had begun in early 2018 with a view to identifying the number of posts that would be set aside for those population categories. Within the first few months of the scheme, 17 per cent of persons with disabilities had found employment. Steps were being taken to ensure that individuals were matched to posts suited to their physical condition. The Government intended to introduce a national disability register containing the personal information of persons with disabilities, including their ability to work, and had launched a tendering process to select the organizations that would assist in the establishment of the register.

13. **Mr. Ergeshov** (Turkmenistan) said that the Government remained committed to improving the quality of drinking water. It had introduced a robust drinking water policy under which water supplies were closely monitored to ensure that they complied with

international quality standards. Concerning the use of pesticides and the consumption of genetically modified foods, the Government had taken steps to strictly enforce the national environmental protection code, establish a food quality commission and ban the import and production of genetically modified foods. In 2015, the Food and Agriculture Organization of the United Nations (FAO) had recognized the country's achievements in terms of food security.

14. **Mr. Hajiyev** (Turkmenistan) said that he strongly contested reports concerning the existence of a newly constructed but abandoned town located in a remote area of the country. The town in question had been constructed to accommodate some 3,400 families. During the first phase of construction, 1,860 families had been offered new homes and a school, three preschools, an arts centre and a place of worship had been built. In the second phase, some 1,536 families had moved into new accommodation and a further two schools, four preschools and a hospital had been built. New roads in and out of the town had also been constructed and other essential infrastructure and facilities had been installed. While there might have been a few teething problems in terms of water and electricity supply during the construction period, it was incorrect to state that citizens of the town had been entirely without basic services.

15. The national housing policy aimed to improve living standards and provided for the construction of modern, fully accessible accommodation using high-quality materials. It was unfortunate that some media outlets had spread fake news regarding the demolition of properties in a small town 40 km from the capital. In reality, work was under way to build luxury modern residential blocks to replace the existing dilapidated buildings. Temporary accommodation had been made available to all residents affected by the construction work.

16. Regarding prison overcrowding, the Government had taken steps to improve detention conditions with the support of the International Committee of the Red Cross. Between 2011 and 2018, it had allocated more than US$ 17 million to refurbish prisons and purchase modern medical equipment. An additional US$ 6.3 million had also been set aside to improve prison hygiene and sanitary facilities. Hygiene products and medicines were readily accessible to all prisoners and special dietary and health provisions had been made for pregnant women prisoners and prisoners with disabilities. More than 1,700 prisoners had been pardoned in September 2018. Reports of some 30,000 prisoners being housed in a prison designed to accommodate 13,000 were unfounded. Prison inspections were conducted on a regular basis to prevent that type of situation.

17. The Government remained committed to the rational use of water and had proposed the drafting of a special United Nations General Assembly resolution to protect the Aral Sea. It had launched a number of water-saving initiatives and had built new water treatment and desalination plants to safeguard the national water supply. Some 19 million trees had also been planted as part of a national green-belt project to combat desertification and raise the mineral content of the soil.

18. **Mr. Ergeshov** (Turkmenistan) said that the number of medical graduates had risen steadily over recent years. In 2018, some 404 medical students had graduated, as compared to 299 in 2014. That increase had improved the ratio of doctors to patients in both urban and rural areas, from 25.2 doctors per 10,000 persons in 2014 to 26.1 per 10,000 in 2017. A similar upwards trend had also been recorded for other categories of medical professional.

19. Efforts were under way to combat corruption in medical institutions. Following the adoption of national anti-corruption legislation and the establishment of special monitoring commissions in every medical facility, no further cases of corruption within the health-care sector had been reported. In the event of future corruption cases, robust investigations would be conducted and strict sanctions would be handed down, including dismissals.

20. Action had been taken to improve access to medicines and strengthen local pharmaceutical production. During the reporting period, five new pharmaceutical manufacturing facilities had opened. The output of the national pharmaceutical industry had subsequently increased dramatically: over 40 per cent of medicines were now produced domestically. The introduction of mobile pharmacies guaranteed access to medicines, even in rural and remote areas.

21. **Ms. Shin** (Country Task Force) noted that protests had recently been held in front of United Nations headquarters in New York calling for an end to the practice of forcing teachers and schoolchildren to pick cotton in Turkmenistan. While welcoming the State party's commitment to stopping forced labour in the cotton fields, she would like to know whether efforts would also be made to end the forced mobilization of people for public events, particularly in light of the death of a university student during one such gathering. Similarly, she wondered whether the Government intended to repeal the restrictions on the employment of women in certain harmful or hazardous working conditions and allow women to make their own choices regarding employment.

22. In view of the State party's commitment to consider criminalizing violence against women, she urged the Government to take into account the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence and the Committee on the Elimination of Discrimination against Women's general recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, of 2017. New legislation to combat violence against women should include robust enforcement mechanisms such as annual national surveys on the prevalence of gender-based violence that enabled the Government to monitor the situation closely and make the necessary policy amendments, where appropriate.

23. **Mr. Sadi** said that he would like to know more about the causes of trafficking in women and children in the country. Given the transnational nature of the phenomenon, he would be intrigued to know whether the State party had concluded agreements with neighbouring countries in order to find joint solutions to the problem. He also wondered why no cases of human trafficking had been reported or investigated during the reporting period.

24. While he appreciated that the State party had laws and plans in place to address family violence, he would welcome further information about cases of family violence that had come before the courts. He was particularly interested to know whether the State party had criminalized marital rape and, if not, its reasons for not doing so.

25. Regarding the right to adequate food, he wished to know what level of control the Government had over the use of pesticides in fruit and vegetable cultivation, considering that such chemicals could cause cancer, and whether programmes had been implemented to raise awareness of such hazards. Similarly, he wondered whether awareness campaigns had been carried out to inform people about the nature of adequate food — meaning healthy food according to the latest scientific findings — and to warn them about contaminated food. If genetically modified organisms were present in the food that was available in Turkmenistan, were people warned about them and offered an alternative?

26. **Ms. Liebenberg** said that the Committee understood that the demolitions carried out in Ashgabat in the context of the Asian Indoor and Martial Arts Games had caused several problems. In particular, Human Rights Watch and the Turkmen Initiative for Human Rights had reported that they had not detected any cases of any monetary compensation being provided, while the replacement accommodation provided was not equivalent to the value of the expropriated property because the authorities had not taken into account outbuildings or additional structures in their calculations. Therefore, she would be grateful if the delegation would indicate the number of people who had been offered monetary compensation, describe how it was calculated, and comment on the claim that the authorities' calculations had only taken into account persons holding formal residence permits (*propiska*), but not family members, so that families of 10 or 15 were now living in two- or three-bedroom apartments. How much notice were residents given before demolitions took place and were they able to challenge the demolitions before the courts? Lastly, she would welcome an explanation of why families had been offered apartments with a higher value than the expropriated property and were required to pay the difference in price or become homeless.

27. **Mr. Uprimny** said that the data he had referred to on the number of inmates and the official capacity of a particular prison came from the World Prison Brief, an online database hosted by Birkbeck, University of London. The information on abuses in the prison system was drawn from recent annual reports of Human Rights Watch.

28. **The Chair** said that she wished to reassure the delegation that the Committee did not involve itself in the dissemination of "fake news". Its sources of information included governments and national and international NGOs; all sources were researched and validated. While she was grateful for the information that the State party had provided on the relocation of families into new apartments, she would like to know where those families came from and whether the new apartments were accessible to all families. Considering that, in its concluding observations, the Committee was likely to refer to its general comments on the right to adequate housing and forced evictions and to the basic principles and guidelines on development-based evictions and displacement, drawn up by the former Special Rapporteur on the right to housing in 2007, she asked to what extent the State party took those comments and principles into account when developing its policies. Lastly, she suggested that Turkmenistan might consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, since a dialogue with the Subcommittee on Prevention of Torture would be useful for improving conditions in prisons.

29. **Ms. Sysoyeva** (Turkmenistan) said she agreed that the Government should proceed cautiously in its review of the list of restrictions on the employment of women. It was still working towards approval of the list, which remained pending despite the current labour legislation having been introduced in July 2009. The Government would take on board the recommendations of the Committee and of authoritative international organizations such as ILO in that process.

30. **Mr. Ergeshov** (Turkmenistan) said that Turkmenistan had strict regulations and standards covering the use of genetically modified organisms, pesticides, insecticides and fertilizers and the safe transport and use of chemicals. The accepted level of pesticides in food was strictly regulated by a 2009 decree of the Ministry of Health. Importing and producing food that contained genetically modified organisms was banned under food safety laws. Moreover, since 2015, a new law on food security had been adopted and a new State Commission for Food Security established. A National Programme on Healthy Nutrition had been implemented and had been assessed by the World Health Organization (WHO) and UNICEF, with positive results. In 2016 and 2017, the Ministry of Health had participated in a nutritional study that was part of the FEEDCities project, coordinated by WHO and the University of Porto. The main television channel broadcast a programme called *Healthy Nation* to promote a healthy way of life and healthy food, and awareness-raising was carried out among all population groups.

31. **Ms. Atajanova** (Turkmenistan) said that the Government was already taking account of the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, as recommended by Ms. Shin. A law on domestic violence had not yet been adopted, but the Government was analysing the experiences of other States and considering whether to establish a dedicated institutional mechanism to enforce a future law in that area. In that context, it had observed that in countries like Turkey and Kazakhstan, prosecutors' offices, interior ministries and women's ministries had established specific departments to deal with domestic violence. Turkmenistan did not have any such mechanism, but instead relied on general oversight and monitoring; crimes of domestic violence were dealt with by the police, under the authority of the Ministry of the Interior. Marital rape was not currently classed as a crime under Turkmen law. While the Government would continue to study international standards with a view to incorporating them into national legislation, it was bound to take Turkmen traditions, mentalities and family values into account, considering that there were some standards that the population would not accept. The Government was working to improve the general public's awareness of their rights.

32. **Mr. Hajiyev** (Turkmenistan) said that the organizers of the demonstration held outside United Nations Headquarters were entitled to their views; however, the Government had the right to disagree with them. Considering the double standards of some NGOs, the Government preferred to work with partners who had specialized knowledge, such as international organizations, and was prepared to accept their recommendations and standards.

33. In respect of the "forced participation in State-organized mass events" that had been mentioned by a member of the Committee, the reality was that civilians could choose to voluntarily participate in various events. The information that a university student had died at a public event was unconfirmed and had been disseminated by unreliable sources. The Government regretted the unfortunate imbalance that affected much of the information that was provided in respect of Turkmenistan, and welcomed the opportunity to provide official information to the Committee.

34. Turkmenistan cooperated on a bilateral basis with Turkey, the United Arab Emirates and the countries of the Commonwealth of Independent States to combat trafficking, and it regularly held consultations on related issues. Recognizing that individuals sometimes left Turkmenistan in order to earn a living and subsequently faced discrimination, the Government worked with receiving countries to address that problem.

35. The demolition of housing and the development of a large housing complex outside Ashgabat — a project that was unrelated to the Asian Indoor and Martial Arts Games, which had taken place inside the city — had been planned partly as a solution to rampant crime, violations of housing standards and the tapping of energy and water resources. Residents were given notification two weeks before the planned demolition and were offered the choice of going into old housing or purchasing more comfortable accommodation by making up the difference from their own funds. The Government had accepted the demands of people who had lived in the demolished buildings to be given more spacious accommodation, subject to certain financial conditions: it was not obliged to provide them with extra space for free.

36. **Mr. Abashidze** (Country Rapporteur) said that, in view of the fact that mother-tongue instruction for small ethnic minorities was not financially viable, and the difficulties in finding teachers and teaching materials for such instruction, he would be interested to know whether any cooperation agreements had been reached with States that had special organizations to promote and teach their national language in other countries. Such agreements might be beneficial for ethnic minorities who wished to learn in their mother tongue.

37. The Committee was concerned that the issue of obstacles to studying abroad had again been raised by NGOs and other sources. In that regard, he would be grateful for clarification of whether Turkmen citizens who applied to study abroad were exempted from military service and whether university diplomas obtained abroad were recognized upon their return to Turkmenistan. For example, were any agreements in place to recognize qualifications obtained in the countries of the Commonwealth of Independent States?

38. Considering that the practice of taking bribes for access to higher education establishments was becoming less common in the post-Soviet era as new admissions criteria and structures were introduced, he was curious to know whether any cases had occurred in which universities had been held accountable for taking bribes to accept students. Given that the State party had referred to its celebration of cultural events, including those of other countries, he asked whether the State budget provided for the direct funding of cultural events of national minorities, what budget was allocated for such events, and what the procedure was for cultural organizations to receive State support.

39. Noting that Turkmenistan had launched a telecommunications satellite that could provide nationwide Internet coverage, he asked whether the Internet was generally accessible in remote regions. What criteria or rules were applied in order to block extremist or terrorist websites, and were such sites blocked in practice? Lastly, he wondered whether the unregistered religious organizations mentioned in the replies to the list of issues had in fact made applications that had been refused. If so, he wished to know more about the criteria for registration and how the Government responded to the continued activities of unregistered religious organizations.

40. **Mr. Dasgupta** (Country Task Force) said that it would be useful to the Committee if the delegation could indicate whether statistics were available on the prevalence of child labour and whether any measures were planned to address that problem. Noting that he had requested statistics indicating the extent to which the State party had complied with the targets set by the Millennium Development Goals, he said that he assumed no such

information was available. The Committee had heard that the Government defined the poverty line at $5 a day of purchasing power parity, where the United Nations standard had been set at $2. The delegation should specify whether the $5 level was based on the official exchange rate for the manat. The State party report referred to "improved" drinking water, which the delegation had explained was the same as clean drinking water. The replies to the list of issues provided statistics from 2006, while the current standards dated from 2016. How could the results of the study performed in 2006 relate to water quality standards that had only been adopted 10 years later?

41. **Mr. Abashidze** said that the Committee would like to receive information about assistance provided by the State to persons living with disabilities who were unfit for employment and the system for identifying such persons. What specific programmes were aimed at reducing the gender gap for wages and salaries, and was there a specific time frame for the eradication of the gap? One of the most difficult problems facing post-Soviet countries was the demolition of houses in central areas and their replacement with administrative or other buildings as part of the transition to a market economy. The circumstances of the persons who were evicted in that process should perhaps be taken into account. For example, the State could show more flexibility in implementing its policies and could leave open the possibility of legalizing homes built without authorization rather than demolishing them. The Committee would like to know whether the Government kept records on persons living with HIV/AIDS, whether any systems for treatment had been set up and whether the law provided for non-discrimination against such persons.

42. **Mr. Hajiyev** (Turkmenistan) said that the Government was fairly tolerant with regard to unregistered religious organizations, including for instance the Jehovah's Witnesses. There was a procedure for the registration of religious organizations. Those that met the criteria were reviewed by a commission and duly registered. The commission had not refused any applications, and the authorities also cooperated with religious organizations that had not been registered. In July 2018, the State, Law and Democracy Institute had convened a meeting of religious organizations, and unregistered ones had been invited to take part as well, along with representatives of the media and government ministries. Unregistered organizations were free to practise their customs and traditions within their own regions, but not outside the legally established framework for religious activities.

43. Under the national legislation on Internet services and protection of information, certain websites were blocked. There were no restrictions on access to websites other than those that were prohibited owing to propaganda of terrorist or extremist views or ideologies. The State party report contained statistics on the use of Internet services such as Facebook and Twitter. The satellite coverage zone extended across numerous countries in the Middle East, Europe, Asia and North Africa, and discussions were currently under way on the possible launch of a second Turkmen satellite. The Government was aware that there was corruption in the education sector and it worked to control it. It had thus prosecuted 21 criminal cases involving corruption not only at institutions of higher learning, but also in nursery, primary and secondary schools. Students certified as being enrolled at foreign universities received deferments and were temporarily exempt from national military service obligations and allowed to leave the country for their studies. There was no ban on study in other countries. The recognition of foreign degrees was regulated by law, in accordance with bilateral agreements on mutual recognition that had been concluded with various States.

44. There was a large number of ethnic minorities living in Turkmenistan, and most considered that the Russian language was the language of intercultural communication. The realization of minority language rights thus often manifested itself in the use of Russian as a lingua franca. Ethnic festivals such as the Moon Festival were celebrated, and Russian was widely used by members of the ethnic minorities. There were several ethnic and cultural centres and theatres in the country, including some representing Turkish, Iranian, Russian and French culture.

45. **Ms. Babayeva** (Turkmenistan) said that the Ministry of Education had entered into numerous international agreements that allowed Turkmen students to study at universities in other countries, including the Russian Federation, Belarus, China and Turkey. The

Ministry held annual sessions that provided specific information on university-level educational opportunities abroad. Turkmen students who enrolled in such programmes faced no problems at all in leaving the country. According to the latest available figures, nearly 70,000 Turkmen students, about 40 per cent of whom were women, were studying abroad. In 2017 some 9,400 foreign diplomas had been validated by the authorities, and so far in 2018, 3,200 had been validated. A presidential decree issued in 2013 regulated study abroad, which could take place in the context of international agreements or through private initiatives. The Labour Code included provisions to accommodate foreign students and Turkmen students studying abroad through distance learning.

46. When the national or traditional holidays of neighbouring States were celebrated in Turkmenistan, all travel and accommodation expenses for groups arriving in Turkmenistan to take part in such celebrations were covered from the State budget. Cultural celebrations were organized not only in the capital, but also in other towns and cities. For example, an Uzbek cultural festival had been opened in Ashgabat and continued in Daşoguz, a town with a large Uzbek population, in late 2017. Film festivals and other celebrations were scheduled to coincide with the national holidays of the ethnic minorities and were supported by the Ministry of Culture, which worked closely with the embassies of the countries concerned.

47. **Ms. Sysoyeva** (Turkmenistan) said that domestic legislation had been amended in 2013 to lower the minimum age of employment to 18, thus bringing it into line with the Convention on the Rights of the Child and the ILO Minimum Age Convention, 1973 (No. 138). Similarly, the law had been changed so that there would no longer be a category of children living with disabilities under the age of 16; the law now referred to children living with disabilities under the age of 18. Only persons who had completed 11 years of mandatory schooling could enter the workforce before the age of 18, but that very rarely occurred. They now accounted for less than 0.2 per cent of the registered workforce.

48. **Mr. Ergeshov** (Turkmenistan) said that a programme to improve access to clean water by the year 2020 was currently being implemented. The use of the word "improved" meant that the water had been filtered and purified and that it was safe, and its chemical and bacteriological characteristics were subject to constant monitoring. In urban areas, 98 per cent of the population had access to clean water, and in rural areas over 70 per cent did. Over half the population used piped water, while the rest used water from wells or water distribution trucks. In towns, toilet and sanitation facilities were generally modern, but in rural areas, outhouses were still widely in use.

49. No new cases of HIV had been registered during the reporting period. A national programme to combat HIV had been implemented and a law had been adopted in 2016 with the aim of combating the spread of the virus. The law set out the State policy in respect of education on HIV and provided for the protection of the rights of and provision of social benefits to persons infected with HIV.

50. **Ms. Babayeva** (Turkmenistan) said that, at tertiary level, most educational establishments taught courses in the Turkmen language or, for engineering and certain courses such as those at the International Oil and Gas University, in English. Parents tended to prefer that Russian, Turkmen or a foreign language should be used for instruction at the primary and secondary levels. There were currently 71 schools conducting their classes in Russian. Russian was taught at all schools, along with English as a second foreign language, and language classes were also available in German, French, Japanese and Chinese.

51. **Mr. Hajiyev** (Turkmenistan) said that the delegation would study the Committee's inputs to the dialogue and would report them to the Government. The Committee's wealth of experience was of great value. The suggestion to consider the possibility of declaring an amnesty to curb the practice of demolition and eviction was of particular interest.

52. **Mr. Abashidze** said that the situation in Turkmenistan had clearly changed since the State party's 2011 report, and welcomed the fact that the State party was now showing the political will to deal with a number of issues. The Committee's aim in engaging in a dialogue was to draw attention to points that required attention or study. He expressed satisfaction at the constructive tone of the dialogue. The Committee would no doubt

express the wish that the Government would consider accession to the Optional Protocol to the Covenant, as the individual complaints mechanism provided an effective channel to draw attention to structural problems that required action to improve observance of the economic, social and cultural rights of all citizens. The Government might also consider requesting technical assistance from the Committee itself, or inviting former members of the Committee to work with it, for example in the activities of the State, Law and Democracy Institute.

The meeting rose at 12.45 p.m.

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Committee on Economic, Social and Cultural Rights
Sixty-fourth session

Summary record of the 42nd meeting
Held at the Palais des Nations, Geneva, on Tuesday, 2 October 2018, at 3 p.m.

Chair: Ms. Bras Gomes

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Initial report of South Africa

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The meeting was called to order at 3.05 p.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Initial report of South Africa (E/C.12/ZAF/1; E/C.12/ZAF/Q/1; E/C.12/ZAF/Q/1/Add.1)

1. *At the invitation of the Chair, the delegation took places at the Committee table.*

2. **Mr. Jeffery** (South Africa) said that even before coming to power, the African National Congress had had the foresight to recognize the indivisibility of rights and had strongly promoted the idea of the justiciability of social and economic rights. The language and obligations contained in the Constitution mirrored, to a large extent, the social and economic norms and standards enshrined in the Covenant. The Constitution of South Africa was one of the few in the world that contained a wide range of justiciable social and economic rights.

3. South Africa was a country divided into two nations: the one being relatively prosperous and predominantly white, the other being black and poor and living in underprivileged conditions. It would take time to erode the divide and, notwithstanding the enormous progress achieved over the previous two decades on substantive equality, dignity and human rights, more still needed to be done. South Africa remained a highly unequal society where too many people lived in poverty and too few worked. The legacy of decades of colonization and apartheid, in terms of poverty, inequality, weak economic growth and unemployment, was still acutely felt and continued to determine the opportunities for most of the population. However, despite budgetary constraints, the growth of non-interest expenditure continued to outpace inflation, and government spending on social priorities such as health, education, social protection, housing and community amenities had been maintained.

4. Nonetheless, very real and significant progress had been made. For example, access to services had been broadened immensely through efforts to deracialize and unify service delivery, and the Government had provided 4 million new homes and housing opportunities through its subsidy programme for the poorest South Africans. In 2017, 88 per cent of households had access to piped water and 84 per cent were connected to an electricity supply. The Government's free basic services programme currently supported over 3.5 million indigent households, and more than 17 million social grants were paid each month, benefiting nearly a third of the population.

5. The Government believed that in order to break the cycle of poverty, the children of the poor had to be educated, starting in early childhood. Access to early childhood education had been increasing rapidly and 88 per cent of 5- to 6-year-olds were now in early childhood development facilities. There was near-universal access to schools for children between the ages of 7 and 15; attention had therefore been shifted to improving the quality of education. Of the 12.9 million learners, more than 9.2 million benefited from the national school nutrition scheme. In December 2017, the Government had announced the phasing in of fully subsidized higher education and training for poor and working class South Africans over a five-year period. Starting in 2018, free higher education and training would be available to first-year students from households with a gross annual income of under 350,000 rand.

6. The Bill of Rights stated that, with the exception of four sections, all rights were guaranteed to everyone in the territory. Over the previous two decades, many ground-breaking court decisions had been handed down in a trailblazing era of the country's constitutional jurisprudence. Court judgments were implemented by the Government, thus ensuring the strengthening of the human rights culture in the country.

7. Since the submission of the initial report, other important human rights and governance matters had arisen, notably the debate around section 25 of the Constitution on land issues. Land inequity and its adverse impacts jeopardized political stability. According

to the 2017 Land Audit Report, nearly three quarters of national agricultural land was owned by white South Africans, and women owned only 13 per cent of farmland. The goal set by the Government in 1994 to transfer 30 per cent of total productive land by 2014 had not been achieved, largely owing to the failure to provide just and equitable compensation to landowners. To date, 10 per cent of total agricultural land had been acquired for land reform purposes. Parliament had called for an investigation by the parliamentary Constitutional Review Committee into the necessity of amending section 25 of the Constitution to enable the State to expropriate land without compensation. An interministerial committee on land reform had been established to coordinate and implement measures to accelerate the redistribution of land. In addition, a 10-person advisory panel had been appointed to suggest models for a fair and equitable land reform process that would redress past injustices, increase agricultural output, promote economic growth and ensure food security.

8. Regarding anti-corruption efforts, the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector, including Organs of State, had been appointed and had held its first hearings the previous month.

9. The two-nation reality was nowhere more evident than in the area of health care. Nevertheless, the National Health Insurance Bill had been gazetted in June, bringing the country a step closer to achieving the Government's aim of universal health coverage and health care for all. The Bill provided for a health financing system that pooled funds to provide access to quality health services for all South Africans based on their health needs and irrespective of their socioeconomic status. It would require a massive reorganization of the current health system, both public and private.

10. In September, the President had announced a new economic stimulus and recovery plan, which, along with the upcoming Jobs Summit and an international investor conference, would strengthen the investment environment in South Africa and create jobs.

11. South Africa valued the inputs and reports from civil society organizations. Since the entry into force of the Covenant in South Africa, various meetings and consultative workshops had taken place between the Government, the South African Human Rights Commission and civil society organizations in preparation for the submission of the initial report. South Africa looked forward to a fruitful dialogue with the Committee as an opportunity for both inspection and introspection for, in the words of Nelson Mandela, the long walk had not ended.

12. **Mr. De Schutter** (Country Rapporteur) said that he commended the leading role that the State party's courts, and especially the Constitutional Court, had been playing for many years in the area of the justiciability of economic, social and cultural rights. The Committee was impressed with the State party's commitment to promoting the fight against discrimination on grounds of sexual orientation in international forums, its adoption of the Civil Union Act in 2006 and its contribution to promoting the business and human rights agenda within the United Nations system.

13. Naturally, challenges remained, including with regard to the legal status of the Covenant in the State party's legal order. He would welcome the delegation's comments on the possibility of ratifying the Optional Protocol to the Covenant. He wished to know whether the State party intended to reconsider the declaration that it had made upon ratifying the Covenant regarding its intention to give progressive effect to the right to education, especially in the light of the fact that the Constitutional Court, the Covenant and the Committee's general comment No. 13 all referred to the immediacy of that right's realization. While he welcomed the level of detail in the Constitution with regard to social and economic rights, he cautioned against that instrument overshadowing international norms. Accordingly, he wished to know whether there were any plans to enhance the training of judges in international human rights law as a means of improving the justiciability of Covenant rights.

14. Although the report was extremely detailed, some statistical information was missing, namely data disaggregated by race, gender and province, making it difficult for the Committee and national authorities to monitor the implementation of Covenant rights in the

State party. He would appreciate the delegation's comments on whether the South African Human Rights Commission received sufficient funding to fully discharge its duties.

15. Despite the vibrancy of civil society in the State party, Human Rights Watch reported that human rights defenders were threatened and harassed and that, in some situations, their protests were suppressed. The Committee would welcome a strong message by the authorities that dissent and peaceful protest were a normal component of a well-functioning democracy. It would expect law enforcement personnel to be appropriately trained so as to prevent the excessive use of force against protesters. In addition, it would recommend clarifying the term "public violence", an offence with which protesters were sometimes charged, as it was overly broad and vague and could deter human rights defenders from taking part in peaceful protests.

16. Noting the disparities not only between provinces but also between rural and urban areas within a single province, he wished to know what might be done to bridge the gaps, especially given the key role provinces played in the provision of public services that were essential to the enjoyment of Covenant rights. Perhaps the formula used to divide resources among the provinces could be revised. Given that South Africa was one of the most unequal countries in the world and that its tax system, especially with the recent rise in the value added tax (VAT), was not as progressive as might be hoped, it would be useful to know whether the Department of Planning, Monitoring and Evaluation might be strengthened so that its evaluations of public programmes not only led to improved delivery and outcomes but also ensured that budgetary priorities were defined in keeping with the Constitution, the Covenant and the recommendations of the South African Human Rights Commission. He was concerned about the impact of recent austerity measures on vital sectors such as health and education.

17. While the State party had an impressive anti-corruption legal framework, its whistle-blower protection could be enhanced by adopting a broader definition of who and what types of disclosures were protected. More should be done to tackle petty corruption by low-level public officials, for instance by taking a rights-based approach to the provision of services and setting up an independent claims mechanism. Whistle-blower protection in that area would be useful as well. It would be interesting to know whether the recommendations of the Auditor General regarding the misappropriation of public funds would be implemented. Might the revenue service be strengthened in order to better address the enormous loss of State revenue through tax evasion?

18. The State party's anti-discrimination framework was quite remarkable, but non-governmental organizations (NGOs) repeatedly noted that chapter 5 of the Promotion of Equality and Prevention of Unfair Discrimination Act of 2000, on the promotion of equality, was not being adequately implemented. What steps were being taken to correct the situation?

19. Citing the ruling of the Supreme Court of Appeal in *Minister of Home Affairs and Others v. Watchenuka and Others* and drawing attention to the Committee's substantive statement on Duties of States towards refugees and migrants under the Covenant (E/C.12/2017/1), he wished to know whether section 22 (8) of the Refugee Amendment Act, which denied the right to work to asylum seekers under various conditions, would be amended and, if not, for what reasons. Lastly, quoting from general comment No. 34 of the Committee on the Elimination of Discrimination against Women, he also wished to know how the State party intended to improve access to land and productive resources for rural women, which was severely hampered by traditional practices and customary forms of tenure.

20. **Ms. Crăciunean-Tatu** (Country Task Force) said that the State party was to be congratulated on having such a vibrant civil society. She asked whether the Traditional and Khoi-San Leadership Bill was based on comprehensive statistical and demographic data that included social and economic indicators relevant to the Khoi and San peoples. It would be interesting to hear how the Bill would address the issue of the inadequate recognition of those peoples, land discrimination and marginalization in their regard and the protection of their linguistic and cultural rights, including in the field of education. Information would be

welcome on the State party's plans to become a party to the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (ILO).

21. She asked what measures had been planned to protect persons with albinism from violent attacks, to make reasonable accommodation for them in social environments and in the workplace, particularly concerning visual impairments, and to facilitate their access to education, appropriate vocational training and grants.

22. **Mr. Abdel-Moneim** asked why, compared to black African-headed households, white-headed households not only received much higher incomes from work and capital but also enjoyed substantially more income from pensions, social insurance and family allowances. Information would also be welcome on the extent to which the national authorities, when planning taxation policy for the reporting period, had taken into account the need to redistribute national income among the population and to increase the State party's resources in order to reach the maximum envisaged in the Covenant with regard to achieving the realization of Covenant rights.

23. **The Chair**, speaking in her personal capacity, asked why it had taken so long for South Africa to ratify the Covenant. It would be interesting to hear whether, in the light of its ratification, the State party would reconsider its stance related to the right to work in the context of the Constitution. She asked whether the guidance contained in the letter dated 16 May 2012 sent by the Chair of the Committee to States parties on requirements related to austerity measures had influenced the authorities when following up on national laws, policies and programmes. Lastly, she wished to know how the Covenant had been of assistance in the fight against systemic and intersectional discrimination and how efforts in that regard had been transformed by the State party's ratification of the instrument.

The meeting was suspended at 3.55 p.m. and resumed at 4.20 p.m.

24. **Mr. Jeffery** (South Africa) said that ratification of the Covenant had been delayed owing to the need to put in place a proper reporting system concerning the instrument. Although the national authorities were examining the possibility of ratifying the Optional Protocol, the focus was currently on maintaining the State party's unblemished record of meeting its reporting obligations under the Covenant.

25. As to the State party's declaration related to articles 13 (2) (a) and 14 of the Covenant, article 29 (1) of the Constitution provided that all persons had the right to a basic education, including adult basic education, and to further education, which the State, through reasonable measures, must make progressively available and accessible. Basic education was compulsory up to the age of 15 years and referred to both primary and secondary education, whereas the Covenant only provided for free primary education. Education fees were waived in the case of parents on low incomes and tertiary-level students unable to fund their studies themselves.

26. As to the issue of the funding of the South African Human Rights Commission, budgetary cuts had affected the whole of the public sector in South Africa. In line with the Constitution, three separate human rights institutions had been set up, all of which required financial support. Parliament was currently examining a report on the issue of whether to merge those bodies.

27. The right to protest was exercised freely and frequently in South Africa. However, protests often turned violent. Prosecutions in that regard were rare, with perpetrators only being imprisoned in cases involving serious crimes. The recommendations on public order policing made by the Marikana Commission of Inquiry were currently being implemented. Several articles of the Regulation of Gatherings Act had been declared unconstitutional, although that decision had still to be confirmed by the higher courts. Tensions within communities sometimes led to violent attacks on persons, and the law must be implemented in such cases.

28. The Protected Disclosures Act had recently been amended to broaden the definition of an employee to include contractors, agents and other persons employed indirectly or on a temporary basis. The Act protected whistle-blowers from discrimination in the workplace. Under existing domestic legislation, whistle-blowers seeking employment elsewhere could

challenge a decision not to hire them taken based on their whistle-blowing activities, although such claims were difficult to prove.

29. All forms of corruption, no matter how petty, were illegal and perpetrators faced prosecution. The authorities and the South African Human Rights Commission were currently looking into possible legislative amendments to facilitate practical implementation of Chapter V of the Promotion of Equality and Prevention of Unfair Discrimination Act.

30. The Auditor General audited all public accounts and reported to the relevant level of Government where instances of unauthorized or wasteful expenditure had been detected. Parliament, each of the nine provincial legislatures and many municipalities had a standing public accounts committee responsible for dealing with such instances. Within Parliament, the National Assembly had the task of deciding whether to pursue allegations of unauthorized expenditure. Parliament was currently considering a Public Audit Amendment Bill designed to allow the Auditor General to authorize performance audits, to recover losses from responsible entities and individuals and to refer irregularities arising from audits to other bodies for investigation.

31. All legislation on racial classification had been repealed following the fall of the apartheid regime and had largely been replaced by self-classification. Chapter 2, section 9 (2) of the Constitution provided for measures to advance categories of persons disadvantaged by discrimination, such as the Khoi and the San peoples. South Africa currently had 11 official languages, all of which enjoyed equal status. Any move to increase that figure would be costly in financial terms. Chapter 1 of the Constitution, which could only be amended with a supporting vote of at least 75 per cent of the members of the National Assembly, provided for the establishment of a pan-South African language board to promote and create conditions for the development and use of all official languages and the Khoi, Nama and San languages.

32. Under the Prevention and Combating of Hate Crimes and Hate Speech Bill currently being considered by Parliament, the offence of hate speech covered incitement to hatred based on, among other things, albinism. The Albinism Society of South Africa received government funding to strengthen its organizational capacity and run awareness-raising campaigns on the rights of persons with albinism, in particular in traditional settings. The Government was also working with traditional leaders and healers and the various relevant national human rights commissions and civil society bodies to promote the rights of persons with albinism. South Africa was spearheading efforts within the Southern African Development Community to ensure the adoption of a protocol on those rights. Hospitals made provision for sunscreen for persons with albinism and schools provided educational materials in large print format and assistive devices to students with albinism and resulting visual impairments. All persons unable to work could apply for a disability grant.

33. **Ms. Mxakato-Diseko** (South Africa) said that discrepancies regarding income on the basis of ethnic origin could be explained by the fact that certain population groups continued to benefit from the accumulated effects of years of privileged treatment.

34. It was difficult for developing nations to tackle the issue of illicit financial flows because of significant opposition from powerful private sector enterprises, the limitations of mutual legal assistance and the reluctance of some member States of the United Nations to promote greater intergovernmental cooperation and accountability in that regard. The Committee might wish to consider issuing a general comment on the urgent need for a legally binding instrument to address the issue. The South African revenue service was working with its counterparts in other African countries to halt illicit financial flows, and the State party was involved in the Tax Inspectors Without Borders initiative. Efforts were also being made at the domestic level to improve scrutiny and traceability of assets.

35. South Africa would benefit from the Committee's guidance regarding the issue of how to give substance to the right to work at the national level.

36. Land distribution was the subject of ongoing national debates, at the heart of which lay the issues of dispossession and the superimposition of a divide-and-rule system

inherited from the Bantustan era. Legislation was being put in place to facilitate landownership by women.

37. The ratification and domestication of ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) were being looked at holistically.

38. **Ms. Chohan** (South Africa) said that the Government was keen to minimize the risk of asylum procedures being exploited in a manner that undermined its immigration-for-work policies. It drew an important distinction between asylum seekers and refugees. The former were persons in the process of applying for refugee status, while the latter were persons whose applications had been approved.

39. Prior to 2011, asylum claims had typically taken two to five years to process. It was in that context that the *Watchenuka* case had unfolded. Ms. Watchenuka, a destitute single mother, had filed an application for asylum that had taken an inordinate amount of time to resolve. During the asylum process, she had not been offered a subsistence allowance or any social services by the Government or by the Office of the United Nations High Commissioner for Refugees (UNHCR) or its partners. The Supreme Court of Appeal, in its 2003 judgment, had granted Ms. Watchenuka relief by allowing her to undertake employment. Since 2003, there had been a number of material changes, not least the establishment of a range of UNHCR-funded shelters and church-run places of safety across the country, especially in urban areas. The Government had invested significant resources into making the asylum process more efficient, thanks to which, currently, claims were sometimes settled on the day of their submission. The objective was for all claims to be handled within three months.

40. In the immediate aftermath of the 2003 *Watchenuka* judgment, it had become the norm to grant asylum seekers the right to work without conducting an assessment of their individual circumstances. That had led to a great deal of abuse of the asylum system by economic migrants. South Africa received mixed migration flows, which included individuals with personal resources wishing to set up businesses and persons joining family members who were already settled in the country and able to host them. Between 2005 and 2015, South Africa had been the country of destination for over 1 million asylum seekers, yet the number of refugees in the country stood at under 200,000. Currently, around 90 per cent of asylum applicants were economic migrants, many of whom were open about their reasons for entering the country. Although their applications were denied, the practice of granting the right to work automatically upon receipt of an application meant that many individuals simply abandoned their application and remained in the country indefinitely.

41. The Government had felt that asylum seekers in need of protection and social assistance should be able to access relevant services where they were available, and that it should be possible to assess that need at the point when those people entered the system. It had also been of the opinion that destitute individuals would be better served by receiving social assistance rather than a foreign worker visa, which would be of little use to them in finding accommodation and sustenance in the short term. The legislative amendments that had been introduced therefore aimed to comply with the letter and spirit of the *Watchenuka* judgment, by expediting the consideration of asylum claims, providing for individual needs assessments and offering several immediate solutions, included sheltered accommodation, which had previously been provided in an ad-hoc fashion.

42. **Mr. Jeffery** (South Africa) said that, according to section 233 of the Constitution, "when interpreting any legislation, every court must prefer any reasonable interpretation of the legislation that is consistent with international law over any alternative interpretation that is inconsistent with international law". Judges and magistrates received training, including in the area of human rights law, from the South African Judicial Education Institute, an independent statutory body run by a board chaired by the Chief Justice.

43. Around 65 per cent of children in South Africa attended non-fee-paying schools. Children enrolled at fee-paying State schools were not removed in the event that their parents or caregivers ceased to be able to pay. The funds collected from those who could pay were used to subsidize secondary and higher education. The Government aimed to guarantee free education for all by 2030 and had made facilitating the access of children with disabilities to education a priority.

44. Since there was no representative of the National Treasury in the delegation, replies to some of the Committee's questions would be provided in writing.

45. **Ms. Shin** asked what was stopping the Government from granting official recognition to indigenous peoples, which would promote their enjoyment of economic, social and cultural rights, including the right to land.

46. **Mr. Uprimny** said that in recent years, reforms had been introduced that diminished the role played by personal and corporate income taxes and social spending, which would inevitably lead to greater inequality. He would be interested to know how the Government planned to ensure that austerity measures did not deepen social inequality and whether it had considered, for example, eliminating tax breaks for high-income earners.

47. It was clear from the State party's 2010 Gini coefficient of 0.77 before taxes and transfers, which was the highest in the world, that there were problems with its model of development. Although the legacy of apartheid still lingered in the country, the time had come to take decisive measures to promote inclusive growth, invest in human capital and deepen land reform in the interests of enhancing equality.

48. **Mr. Windfuhr** (Country Task Force) said that, according to the information at his disposal, some 700 asylum claims were currently pending before the State party's authorities. In view of that, he wished to know whether it was realistic to expect all claims to be processed within three months. He would also be interested to hear the delegation's thoughts on the effect that not working but benefiting from social welfare had on the way in which asylum seekers were perceived and treated in the State party. He asked whether it would not be preferable to allow asylum seekers to undertake employment, and whether the current policy was not encouraging people to enter the country illegally and take up work in the informal sector.

49. It was laudable that the State party did not make use of detention centres. However, he had recently read a white paper on migration which proposed that asylum seekers should be confined to processing centres near the borders where their basic needs would be catered for. It would be helpful to know the status of the white paper.

50. **Ms. Crăciunean-Tatu** (Country Task Force) said that she wished to know whether, aside from the Prevention and Combating of Hate Crimes and Hate Speech Bill, there were any domestic laws that addressed the special vulnerabilities of persons with albinism, and how the Government intended to implement the Traditional and Khoi-San Leadership Bill in a manner that took into account those vulnerabilities. An indication of whether the disability grant that had been mentioned was available to all persons with albinism, or only those who were unable to work, would also be appreciated.

51. **Mr. Abdel-Moneim** said that it should not be forgotten that South Africa belonged to the family of developing countries and had to face all the problems associated with that status. Five centuries of colonization, exploitation and apartheid could not be overcome in 22 years. The process would take time, but through serious and sincere efforts, progress would come.

52. **The Chair** drew the delegation's attention to the Committee's general comments Nos. 18, on article 6 of the Covenant, and 23, on article 7, and said that the two documents were unequivocal on the obligations of States to protect the right to work and the right to just and favourable conditions of work. She would welcome an assessment from the delegation of what ratifying the Covenant had meant for South Africa.

53. **Mr. De Schutter**, drawing attention to paragraph 37 of the Committee's general comment No. 24 on State obligations under the Covenant in the context of business activities, said that the Committee and the State party were on the same wavelength when it came to tax evasion, which had been one of the major topics of discussion at the Third International Conference on Financing for Development, held in Addis Ababa in July 2015. He welcomed the leading role that South Africa played in addressing the issue within the United Nations system.

54. **Mr. Jeffery** (South Africa) said that the disability grant was available only to persons who were unable to work because of their condition. State schools serving learners with special educational needs would be declared non-fee-paying with effect from 2019.

55. **Ms. Chohan** (South Africa) said that she could not verify the Committee's information on the number of pending asylum applications. Any backlog in the appeals system would pertain to matters that had been in the appeals system prior to 2011. Regarding asylum seekers' right to work, the proposed legislative amendment did not yet have legal effect and would not be applied retrospectively. It was intended to be a limited intervention to prevent abuse of the asylum system, as over 80 per cent of applicants for asylum were considered economic migrants. It would apply only to asylum seekers whose applications had not been addressed within four months, and it would not remove asylum seekers' right to work but award it in specific cases where applicants were at risk of becoming destitute or homeless.

56. **Mr. Landers** (South Africa) said that the Traditional and Khoi-San Leadership Bill would make provision for the statutory recognition of the Khoi-San leaders and communities. The Government had carried out consultations with the South African Human Rights Commission, among others, and had determined that under the Constitution, in order to make restitution for people who had been deprived in Apartheid South Africa, it was necessary to refer to their former racial status. The standard practice in that regard was to ask South African citizens how they would describe themselves in terms of a population group, and the Khoi-San had previously asked for the term "coloured" not to be used. Ministries used self-determined information about racial identity to implement restitution.

57. There was ongoing debate about the cut-off date for land claims, or indeed whether there should be a cut-off date. The leader of the Khoi-San community said that the date should be 1652, reflecting the arrival of Dutch colonialists who had taken possession of land that belonged to the Khoi-San. Any official land claim made by the Khoi-San would be addressed using the standard procedures related to expropriation without compensation, and redress and redistribution.

58. **Ms. Mxakato-Diseko** (South Africa) said that the economy had long been reliant on cheap labour in industries such as mining and textiles. The Government was trying to resolve the problem through a tripartite approach involving the joint discussion of issues, including income inequality, by representatives of business, labour and the Government.

59. **Mr. Jeffery** (South Africa) said that the Government had issued a set of potential social security reforms that would reduce tax rebates for the wealthy to the benefit of social security provisions and subsidies. The Government was working with ILO on the proposals, which would create a more progressive tax system.

60. **Mr. Windfuhr**, referring to a rights-based approach to employment, said that he would appreciate further information on measures to tackle unemployment, specifically among young people and persons with disabilities. It would be helpful to have information on the size of the informal sector, and on whether there were plans to introduce a regulatory framework that would allow informal workers to access social benefits.

61. Reports had shown a shift from full-time work to temporary, seasonal and informal work in some sectors, including farming, mining and retail. He would appreciate information on the impact of that trend. Moreover, he wished to know how the Government would guarantee full implementation of the requirement that temporary employment with a single employer did not exceed three months. How would the Government address the decline in formal and full-time employment in general?

62. The new minimum wage legislation was a welcome development, particularly in view of its effects on the farm and domestic work sectors. However, he wished to know how the Government would ensure that all sectors benefited from the legislation, how the minimum wage was calculated, and how the rate was assessed and updated.

63. Women in South Africa were more likely than men to be unemployed or be in low-paid or unpaid work. Existing collective agreements on employment equity and remuneration did not appear to include provisions on equal pay. He wished to know how the Government planned to address that situation.

64. It had proved difficult for labour inspectors to monitor the working conditions of those employed in domestic or farm work, for example. In that regard, he wished to know how the authorities verified that employment regulations, including minimum wage and working hour requirements, were observed in such situations. As dismissal from employment, particularly in farm work, was often tantamount to eviction, he would appreciate information on measures to address and monitor such cases.

65. In view of the fact that the sale and purchase of sex was criminalized in South Africa, he wished to know how the Government intended to protect sex workers against harassment and physical violence.

66. Migrant workers sometimes avoided using social services for fear of deportation and often faced problems in accessing redress for employment issues when required. Were there any measures in place to help migrant workers overcome barriers to accessing such services?

67. There remained concerns about occupational health and safety in the mining industry, and particularly about the housing and living conditions of workers. In that regard, he wished to know how the Government was following up on the recommendations of the Marikana Commission of Inquiry, whether the situation in the industry had improved, and how the Government could have better control over the industry. In view of reports that the Labour Inspectorate was understaffed and struggled to give effect to its findings, he wondered what the Government could do to improve the governance of labour inspections. Would the proposed extension of the Compensation for Occupational Injuries and Diseases Act apply to domestic workers, and was progress being made in expanding occupational health and injury protection in general?

68. As some sectors, such as the farm and domestic work sectors, had a low rate of organization among workers, he wished to know how the right to establish bargaining councils was supported in largely informal sectors. How did the Government plan to address the decline in trade union activity and membership?

69. The proposed amendment to the Labour Relations Act could allow advisory panels, led by a representative of the Commission for Conciliation, Mediation and Arbitration, to impose binding decisions on whether a strike could take place, although those decisions could be appealed. Would such a scenario constitute a restriction of the right to strike? Moreover, law enforcement authorities did not always grant workers permission to protest, particularly in the mining sector, which could constitute a violation of the right to strike. What was the Government's position on the situation? How could the Government guarantee the right to protest and the right of freedom of assembly in practice? Had there been any changes or problems since the events at the Marikana mine? Overall, only one third of requests for protests were approved by police, and there had been reports of police brutality and harassment of protestors by law enforcement authorities. He therefore wished to know how the right to protest was guaranteed in practice, and whether the right to protest was undermined by criminalizing or refusing to grant permission to people lawfully applying to do so.

70. The country's social security system was extensive, but the decreasing share of national expenditure on social security and the increase in the rate of VAT could have a negative impact on some recipients of social welfare, particularly in view of income inequality and racial disparities in the poverty rate. How would the Government address such issues?

71. Non-contributory social security measures were insufficient in some cases; for example, the child support grant had been increased but remained below the national food poverty line. He wished to know how the Government could prevent the further impoverishment of people who were dependent on social security benefits; how often allowances and benefits increased; and how the Government assessed and addressed the needs of recipients. How were the available resources calculated and what instrument was used to implement a social protection floor? Noting recent problems in social security payments, including the misuse of data, he wondered how the payment system could be improved and how the Government could ensure that people received their full payments.

The meeting rose at 6.05 p.m.

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Sixty-fourth session

Summary record of the 43rd meeting
Held at the Palais des Nations, Geneva, on Wednesday, 3 October 2018, at 10 a.m.

Chair: Ms. Bras Gomes

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Initial report of South Africa (*continued*)

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The meeting was called to order at 10.05 a.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Initial report of South Africa (*continued*) (E/C.12/ZAF/1; E/C.12/ZAF/Q/1 and E/C.12/ZAF/Q/1/Add.1)

1. *At the invitation of the Chair, the delegation of South Africa took places at the Committee table.*

2. **Mr. Letoaba** (South Africa) said that the labour legislation in force covered all workers, irrespective of their status. The Government had instituted a range of initiatives designed to address the high unemployment rate. Thematic discussions had taken place that would feed into the recommendations to be formulated at the Jobs Summit scheduled for October 2018. Other initiatives included the expanded public works programme and the youth employment programme, both of which were designed to get more young people into work. South Africa was also involved in the Global Apprenticeship Network, and there were apprenticeship and internship schemes in operation in the country to help young people gain work experience. The Department of Trade and Industry supported small- and medium-sized cooperative enterprises set up by young people, offering them grants and mentoring. The Black Industrialist Programme promoted employment among population groups that had historically been marginalized, and the Department of Labour provided training opportunities for young people and helped to match their skills to available posts. Funding for training was channelled through the Sector Education and Training Authorities. The Department of Labour also hosted job fairs to link up young people with prospective employers and training providers.

3. The Employment Equity Act protected persons with disabilities against discrimination in the workplace. Public and private employers were obliged to implement affirmative action measures for such persons and to submit annual employment equity reports. Great progress had been made in the employment of persons with disabilities in the public sector, and the focus was now turning to more meaningful engagement in the private sector.

4. Under the Employment Services Act, temporary employment agencies were obliged to register with the authorities and display their registration certificate prominently at their premises. They were prohibited from charging jobseekers for using their services. If jobseekers encountered problems with an agency, they could report their concerns directly to the Department of Labour. Amendments to the Labour Relations Act had been designed to prevent workers from being exploited and to protect their right to social protection through the introduction of a ban on back-to-back temporary contracts. Any person employed for longer than three months was now considered a permanent employee.

5. Persons employing domestic workers, the majority of whom were women, were obliged to register them with the unemployment insurance fund to ensure that they would be eligible for temporary financial support should they lose their job. The Government was in the process of amending the legislation regulating the Compensation Fund in order to include domestic workers in the Fund's remit.

6. Labour inspectors had the right to inspect any public- or private-sector workplace, including farms, without notice. However, since the Constitution protected the right to privacy, inspections of private homes where domestic workers were employed had to be carried out by prior arrangement. If problems had been identified in a particular sector or if an employee had reported specific concerns, inspectors were required to carry out visits to address those issues. Employers were then given time to put corrective measures in place. There were approximately 1,000 labour inspectors working in the country; the austerity measures in place meant that it had not been possible to increase their number.

7. Following the decision to introduce a national minimum wage, an advisory panel had been established to determine the level at which it would be set. The panel had

considered submissions from a range of sectors and settled on a starting point of 20 South African rand per hour. The Government acknowledged that that amount was too low; however, it would be adjusted annually and would cover all sectors and both the formal and informal economy.

8. The Government was engaging with the issue of equal pay for work of equal value at both the national and international level. It was represented at the Equal Pay International Coalition, where ideas and best practices were shared.

9. The National Economic Development and Labour Council provided funding to trade unions to help them expand their membership base.

10. The Global Commission on the Future of Work had been established by the International Labour Organization (ILO) to examine the future of work and address the challenges that threatened to undermine the progress that had been made to date. The report of the 28-member Commission, which was co-chaired by the President of South Africa, would contain measures intended to address the decent work deficit globally and to help developing countries support each other in facing the challenges in that area.

11. **Mr. Van Vrede** (South Africa) said that, although social security expenditure appeared to have declined over the past 10 years, it had in fact remained flat. The amount budgeted had remained broadly the same, but fluctuations in gross domestic product (GDP) meant that its size as a percentage of GDP had shrunk. Social security spending as a share of total government expenditure had declined slightly because the policies underpinning it had not been updated since 2009.

12. Social grants were a very important instrument in the redistribution of wealth, since poverty was generally divided along racial lines. The Government had proposed two major social security reforms, namely the introduction of national health insurance, and the establishment of a comprehensive social security forum to deal with pensions, unemployment benefits and income support.

13. When it had been introduced in 1998, the child support grant had been allocated for children up the age of 7 years and had been set at the subsistence level necessary for a young child. The grant had since been extended to cover all children up to the age of 18 years. Although the Government recognized that the amount of the grant should be increased, there was not currently the fiscal space to be able to do so. Any increase would have to be instituted progressively. In 2018, general inflation had stood at 4.9 per cent and food inflation at 2.9 per cent, while the amount of the grant had been raised by 6.6 per cent. A bill had been tabled before parliament that would empower the Minister of Social Development and the Minister of Finance to determine categories of children who would qualify for higher rates of the child support grant; once the bill passed, orphans would receive a top-up of 50 per cent.

14. Under the National Development Plan, a social protection floor would be established by 2030. Efforts were already under way in that respect, through the provision of social grants, free primary health care and free basic education. The National Planning Commission had been tasked with making recommendations on how to consolidate the social protection floor and codify guarantees in areas such as housing subsidies. That work was expected to be delivered by the end of 2019.

15. With regard to the misuse of data and bank accounts belonging to social grant recipients, the Government had complied with the court ruling to take back control of the administration of the social grants payment system. It had learned important lessons regarding procurement and administrative processes. South Africa Post Office, which was a government agency, had now taken over payment operations and all related data were now under government control. Beneficiaries' Post Office accounts were ring-fenced and no unlawful deductions could be made from them. In September 2018, the Supreme Court had ruled that the Government had a duty to protect social grant monies. Regulation was needed in that respect and the Department of Social Development was working with the National Treasury and the South African Reserve Bank to explore options.

16. **Mr. Landers** (South Africa) said that, as part of efforts to recognize the specific vulnerabilities faced by women in the mining sector, including in connection with health

and safety matters, childcare and exploitation, the third iteration of the Mining Charter had been gazetted in September 2018. The Charter included specific provisions aimed at mining companies owned or controlled by women. Such companies were required to have a minimum equity partnership of 5 per cent in new mining rights. The Charter also provided for free carried interest of 5 per cent for communities and a further 5 per cent for mine workers. Other provisions in the Charter covered economic mainstreaming in procurement, employment and training procedures.

17. The issue of the obligations of the extractive industries towards communities was a sensitive and important one, and the Department of Mineral Resources was undertaking a robust consultation process to identify mechanisms that would strengthen community participation. It had also piloted a cooperative approach to small-scale mining in a bid to legitimize unlicensed, subsistence and artisanal miners; areas in which women were overrepresented. The Department of Mineral Resources was working on guidelines and best practices for the development and dissemination of measures to promote the safety and dignity of women in the mining sector through the tripartite Mine Health and Safety Council. The Government recognized that it had often failed to protect the health and safety of mine workers. The Department of Mineral Resources was partnering with the Mine Health and Safety Council to host the Mine Health and Safety Summit in November 2018. The aim of the Summit was to review all issues relating to the Road to Zero Harm initiative that was in place for the mining sector. Just one mine worker killed or injured was one too many.

18. **Mr. Jeffery** (South Africa) said that, in accordance with the 1993 Regulation of Gatherings Act, everyone in South Africa had the rights to assemble, demonstrate, picket and present petitions. The Act required the organizers of gatherings to give notice, while municipalities were required to designate an official to engage with the organizers; the designated official could prohibit the gathering if he or she believed that it posed a danger to the public. The police did not have that power and would have to approach a magistrate if they wanted to ban a gathering; such restrictions could be challenged in the courts. In a recent case, the Western Cape High Court had ruled that the section of the Act that made it a criminal offence not to give notice was invalid and unconstitutional, considering that other measures, such as civil liability proceedings, could be taken against organizers. The case had since been referred to the Constitutional Court. In short, it was easy to hold a gathering and criminal prosecutions only ensued when there was damage to property.

19. The legality of sex work was a major policy issue that attracted many different views. The South African Law Reform Commission had investigated the issue and published a report that had largely recommended the continued criminalization of sex work, along with non-legislative measures such as monitoring of human rights violations perpetrated against sex workers. Conversely, the Sex Workers Education and Advocacy Taskforce was strongly in favour of decriminalization and a substantial lobby advocated the Swedish model of partial decriminalization. The Government was consulting with all stakeholders, including sex workers, and hoped that the issue would be comprehensively addressed after the elections scheduled for 2019.

20. **Ms. Shin**, recalling that the Swedish model criminalized the purchase but not the sale of sex, recognizing that sex workers often acted out of necessity, suggested that South Africa should have a national discussion on how to curb demand and combat the exploitation of women by traffickers, establishment owners and others, with a view to eventually decriminalizing the sale of sex.

21. Considering that in South Africa unequal pay might have a racial as well as a gender dimension, and that the problem was compounded by the non-disclosure of information on pay, she asked whether the realization of equal remuneration for work of equal value was on the Government's agenda and what steps it planned to take to tackle vertical and horizontal job segregation and to realize equal remuneration for work of equal value.

22. **Mr. Windfuhr** (Country Task Force) said that most of the State party's social security policies appeared to be directed at children, young people and older persons, but it was unclear what assistance was provided for persons aged 18 to 59 years who were not in employment. Regarding the right to protest, he asked the delegation to respond to

allegations of arbitrary restrictions on the freedom of assembly of trade unions, including the claim that two thirds of applications to hold gatherings were rejected. He was interested to know whether the labour inspections regime was strong enough in terms of enforcement. Considering that the Global Commission on the Future of Work was looking into the impact of artificial intelligence and digitalization, which might entail the loss of unskilled jobs, he wondered whether the Government had reflected on how to deal with such challenges. The delegation might also like to comment on what was being done to address the difficult living conditions of mine workers in terms of housing and access to water and sanitation.

23. **Mr. Kedzia**, recalling that high staff turnover had led to a shortage of qualified labour inspectors, said he was concerned at the suggestion in a 2016 ILO report that funding for measures to address the problem had not been allocated. Had the problem since been rectified?

24. The Committee would like to know if adjustments to the national minimum wage were made on a regular or an ad hoc basis. Given that the International Monetary Fund predicted that inflation would hold steady at about 5.5 per cent in subsequent years, he wondered whether the national minimum wage was adjusted in line with the inflation rate.

25. Notwithstanding the statement that progress had been made in addressing strike-related intimidation, the Committee was concerned about the reported persistence of violent incidents resulting from police intervention during strike actions, and would welcome updated information in that regard. Information might also be provided on whether and at what stage of the legislative process the proposed amendments to the Labour Relations Act, which could restrict the right to strike by requiring unions to hold secret ballots, were being considered.

26. **Mr. Sadi** (Country Task Force) said that he would like the delegation to provide a direct answer on whether prostitution was lawful in the State party.

27. **Mr. De Schutter** (Country Rapporteur) said he understood that the Government was concerned about its fiscal space; however, economic research had shown that investing in the social rights of children could yield very positive returns. Since the public debt of South Africa was quite sustainable and was lower in GDP terms than that of many developed countries, he believed fiscal space was a consideration that should not be given too much weight in deciding the level at which to set the child support grant.

28. While noting that the Employment Equity Act set forth reasonable accommodation requirements for employers of persons with disabilities, the Committee would be grateful for some indication of whether a recruitment quota was applied in the public and private sectors. Did employers who took reasonable accommodation measures receive any financial support?

29. The fact that farms were vast and located in remote areas meant that employers could easily conceal violations, unannounced inspections were difficult to perform and farm workers who complained of labour violations — especially undocumented workers and migrants — might be at risk of reprisals. He asked how the Government might overcome those obstacles in order to protect workers who complained about labour conditions and whether safeguards might be introduced that encouraged workers to carry out the monitoring function that labour inspectors were unable to perform effectively.

30. The Committee was interested to know what was being done to address the low take-up of the child support grant and to remove the bureaucratic hurdles that made it difficult for poor families to collect the grant. Lastly, he wondered how the Government calculated the level of the national minimum wage, unemployment benefits and the child support grant, and whether South Africa had a mechanism for adequately determining the cost of living.

31. **The Chair** said that she would appreciate clarification on whether the Government's efforts to establish a social protection floor were aligned with the rights-based definition provided in the ILO Social Protection Floors Recommendation, 2012 (No. 202). Considering that wide-ranging systems of non-contributory benefits involved complex procedures and administrative burdens and were open to abuse, she invited the State party

to explain its position on the possible introduction of a universal basic income. She asked whether having a composite index on an adequate standard of living, which had been raised in the Committee's discussions with the South African Human Rights Commission, would allow the country to identify gaps in the social protection system.

32. **Mr. Jeffery** (South Africa) said he wished to emphasize that permission was not needed to organize a public gathering. He did not know the source of the information that two thirds of gatherings had been prohibited, although it was conceivable that mining companies had prevented workers from holding gatherings on private property. In respect of the mining industry, the recommendations of the Marikana Commission of Inquiry were being implemented and most, if not all, of the families of the deceased miners had been paid compensation.

33. The State party's Constitution stated that South Africa was founded on the value of equality. "Equality courts" had already been designated and regional courts would soon be able to deal with violations of equality. The fact that wages were determined on the basis of salary received in previous employment meant that persons from historically privileged groups continued to earn more money than persons from other groups with the same qualifications. Such problems might be referred to the Labour Court, although successful outcomes would require proof of inequality, which was difficult to obtain. The Constitution provided for the right to strike, and therefore any restrictions introduced through amendments to the Labour Relations Act would have to be justifiable.

34. The buying and selling of sex was currently illegal; there were also restrictions on soliciting and loitering under municipal bylaws. The Government was giving the matter due consideration and recognized that the most vulnerable people must be protected. In 2017, the ruling party, the African National Congress, had resolved to organize a high-level discussion with all stakeholders on the decriminalization of sex work. However, the nature of the industry meant that sex workers would continue to be vulnerable even in the event of decriminalization.

35. **Mr. Van Vrede** (South Africa) said that the National Economic Development and Labour Council had drafted a comprehensive paper on social reform and was examining income support for people aged from 18 to 59 years. It was likely that the National Planning Commission would favour the introduction of an unemployment grant for a two-year period for those who were out of work or had never worked. While social partners had tabled a number of proposals, including one for a universal basic income grant, the Government believed that dismantling a well-established, functioning system of benefits in favour of a consolidated grant would prove difficult and unpopular, considering that it would necessitate changes in the amounts provided and the introduction of top-up grants.

36. The Government would welcome any recommendation on raising the child support grant; however, it was also bound to consider the advice provided by the International Monetary Fund, given that the country's credit rating had been downgraded owing to the level of the national debt. It was true that not all of the eligible population received the child support grant, particularly in respect of children under 2 years of age. Although take-up had improved in respect of the younger age groups in rural areas, the challenge in urban areas was that people in work were not aware that they nonetheless qualified for the grant.

37. He believed that the Government was moving towards adopting the definition of a social protection floor proposed by ILO. In 2018, the Government had partnered with an academic institution to develop a standard-of-living index. However, the initial results of the initiative had proved unsatisfactory and the National Planning Commission had asked the academic partner to refine its approach.

38. **Mr. Letoaba** (South Africa) said that the Labour Inspectorate actively engaged with companies to ensure that they complied with national employment regulations. Fines were issued as a last resort. Although it was true that financial constraints had hampered the creation of new labour inspector posts, there was enough flexibility in the budget to make adjustments and recruit more staff where necessary. There had been cases of labour inspectors leaving the public sector to join private companies. While the Government could not stop public officials from making that decision, it had invested in training and other incentives to encourage them to stay.

39. Although farm access remained a pervasive issue, only a few farmers took the decision to restrict access to their lands. In such cases, the relevant national authorities visited the farm to discuss the matter and find suitable solutions. Mobile protection units had been introduced to tackle reprisals against farm workers and leaflets on workers' rights had been published in the local language.

40. The Department of Labour regularly consulted with employers and trade unions with a view to improving working conditions in all employment sectors. Efforts were also made to obtain the views of employees on their workplace during labour inspections. The Government remained committed to the principle of equal pay for work of equal value and held regular intersectoral consultations and discussions on that topic. It also worked closely with private companies to ensure that they adhered to the national employment quota for persons with disabilities. Following the recent introduction of the minimum wage, a panel had been established to monitor the implementation process. It would also be responsible for making the necessary annual adjustments.

41. **Mr. Jeffery** (South Africa) said that the process of applying for a child support grant had been simplified in response to the slow uptake of the scheme. Eligible families now had only to complete a short form and submit their child's birth certificate in order to obtain the relevant financial support.

42. **Mr. Mkhize** (South Africa) said that the Government had streamlined the birth registration process by issuing birth certificates free of charge in hospitals. It had also made mobile birth registration units available in remote and rural areas. Those improvements, together with the inclusion of the names and personal details of both parents on the birth certificate, had facilitated the process of applying for a child support grant and had reduced the number of ineligible claims.

43. **Mr. Sadi** said that he would like to know more about the legacy of apartheid and the current status of race relations in the country, including whether the number of interracial marriages had increased in the post-apartheid era. In view of the high prevalence of domestic violence despite the introduction of various prevention programmes, he wondered what steps had been taken to address the root causes of such behaviour. He would also appreciate clarification on the minimum age for marriage, given the discrepancies between the Recognition of Customary Marriages Act, of 1998, and the Marriage Act, of 1961. It would be particularly interesting to learn why the Marriage Act set the minimum age for marriage at 15 for girls and 18 for boys. The delegation's comments on the consequences of the lack of recognition of Muslim marriages under the Act would also be welcome.

44. He was concerned at the funding and resource gap between the public and private health-care systems, and wished to know more about the steps taken to rectify the situation, including the status of the national health insurance scheme referred to in paragraph 120 of the report.

45. Concerning nutrition and the right to food, he wondered whether instructions to avoid the use of carcinogenic pesticides had been included in the food security training provided to farmers and whether any national awareness-raising campaigns on the dangers of genetically modified foods had been launched.

46. Welcoming the notable improvements in living standards between 1996 and 2014, he wondered whether the large number of new dwellings in urban areas met the minimum acceptable housing standards. Further information regarding the positive and negative impacts of rural migration to urban areas would be particularly useful in that context.

47. Noting the rising breastfeeding rate, he wished to know what measures had acted as the catalyst for such progress. He also requested further clarification of the provisions of the Choice on Termination of Pregnancy Act governing the time restrictions for carrying out abortions. Lastly, he asked whether persons with HIV/AIDS had access to chronic opioid therapy for pain, where necessary.

48. **Mr. Abdel-Moneim**, noting the information provided in paragraphs 96 to 114 of the report on the right to an adequate standard of living, said that careful attention should be paid to interpreting article 11 of the Covenant in conjunction with articles 7 and 12. For example, indirect taxation on consumer goods and services had a significant impact on

living standards. Had the Government considered introducing subsidies for those goods and services? Further information regarding the consumer price index would also be useful in that context.

49. Concerning the right to health, he wished to know what policies and regulations had been put in place to mitigate the potential health risks of nuclear radiation at the national nuclear power plant following health and safety concerns voiced by employees.

50. **Mr. De Schutter** said that he would like to know whether the Government intended to amend the Marriage Act and repeal the provisions establishing differential treatment between men and women. He also wished to know what action had been taken to uphold the Western Cape High Court's judgment ordering the introduction of legislation to govern Muslim marriages.

51. In view of the fact that 10 per cent of children remained unregistered, he asked whether the Government would consider waiving the fees for late birth registration, reimbursing the costs of proof of paternity tests for children with one or more foreign parents, and decentralizing the birth registration service. It would also be interesting to hear whether the Government intended to apply section 4 (3) of the Citizenship Amendment Act to all children of foreign nationals, including those born before the Act came into force in 2013.

52. In the light of the recent resurgence in the abduction and forced marriage of young girls (*ukuthwala*) in the Eastern Cape and KwaZulu-Natal provinces, he wondered what measures had been taken to combat such harmful practices. He would also welcome further information on the steps taken to prohibit virginity testing following the "maiden's bursary" scandal in the KwaZulu-Natal province, which had involved young women being awarded university scholarships provided that they remained virgins.

53. Addressing the right to an adequate standard of living, he noted that farm dwellers benefited from a certain amount of protection under the Extension of Security of Tenure Act. However, that law, which was already over 20 years old, incentivized landowners to reduce the quality of their farms' infrastructure and to hire agricultural workers on short-term contracts in order to circumvent the requirement to provide them with benefits, in a practice known as "pre-emptive eviction". Attempts had previously been made to update the Act, and a new bill was currently under consideration to amend it. It would allow evictions only if suitable alternative accommodation was provided, institutionalize the use of mediation and strengthen judicial protections under the law. The Committee would like to know if the concept of suitable alternative accommodation in the new bill would be in line with the its general comment No. 4 (1991) on the right to adequate housing and whether the phenomenon of pre-emptive eviction would be addressed by the new legislation. He noted further that the South African Human Rights Commission had expressed concern about the reported use of excessive force in evictions and the lack of training for persons carrying out evictions, as well as the failure on the part of municipalities to provide adequate alternative accommodation when evictions took place.

54. Land redistribution and the restitution of lands expropriated since 1913 had been on the Government's agenda for some 25 years. The original goal had been to redistribute 30 per cent of land held by white commercial farmers by 2014, but so far less than 10 per cent had been redistributed. Concentration of holdings had actually increased, as a large number of white farmers had left farming. In addition, there had reportedly been insufficient support for many of the beneficiaries of the redistribution. The support programmes tended to benefit black commercial farmers with large holdings, and left small-scale farmers without support. A parliamentary panel had highlighted corruption and mismanagement in the programmes. In the redistribution and support programmes, the Government had apparently chosen to support large commercial agricultural enterprises that provided raw materials for the food-processing industry and sold their products to large markets, rather than supporting local, small-scale farmers and food self-sufficiency at the regional level. How had the discussion and identification of beneficiaries taken place? A debate was currently being held about the means of providing for the expropriation of land and provision of assistance to small-scale farmers. Had such considerations been raised in that

debate? Acquisition of land represented about a third of the cost of a new farm; clearly, other forms of support were required as well.

55. South Africa currently lacked a specific law on food security and the right to food. Such a law could improve coordination among food security programmes, set clear targets and allocate responsibilities among government ministries. Were there plans to adopt such a law?

56. Noting that a national health insurance bill was currently being adopted, he asked how the system that it would establish would be funded, and whether it would benefit poor families. The Committee had heard that the bill would require users to register with the National Health Insurance Fund at an accredited facility, but such facilities were lacking in underserved rural areas. Did the authorities have a plan to ensure coverage for people in such areas? Would the bill institute a system founded on a rights-based approach, for example by transparently specifying information on entitlements and providing remedies and claims mechanisms in the event of a denial of service? In August 2018, the High Court in Pretoria had ordered government ministries to develop an intersectoral policy and implementation plan to remove barriers faced by children with mental disabilities or behavioural difficulties in accessing education, health care and other social services. The Committee would like to know how the Government would implement that ruling. Access to abortion services was reportedly severely hampered by medical personnel invoking conscientious objection as a reason for not providing them. The Committee's position was that it was for the State to regulate its health policies to ensure that they did not inhibit access to sexual and reproductive health care, including by requiring doctors to refer patients to accessible providers. Was that the case in South Africa?

57. **Ms. Mxakato-Diseko** (South Africa) said that conscientious objection to abortion procedures was regulated by law. Objectors were explicitly required to refer patients to available services, and a failure to do so was a criminal offence. It was possible that patients omitted to report a failure to refer, but the law was very clear.

58. **Mr. Jeffery** (South Africa) said that, during a meeting held the previous day with South African civil society organizations, the delegation had requested detailed information as to which institutions had refused to perform abortions without providing referrals.

The meeting was suspended at 12.25 p.m. and resumed at 12.30 p.m.

59. **Mr. Jeffery** (South Africa) said that South African society was still quite far from a situation where the legacy and traces of apartheid could be considered to be behind it. Race relations would remain problematic as long as inequality in the country persisted along racial lines.

60. Gender-based violence and sexual offences remained serious problems. The Domestic Violence Act provided some level of protection for victims, including in the form of protection orders issued by a court, and dedicated "sexual offences courts" had been established to make it easier for survivors and victims to testify without fear of secondary victimization. Campaigns were regularly conducted against gender-based violence and sexual offences. At the request of civil society organizations, a summit had been convened by the President on the subject and would take place in late October 2018.

61. The Marriage Act, the Civil Union Act and the Customary Marriages Act governed marriage. There were no specific laws on Christian or Muslim marriage. Members of the clergy who performed religious marriage ceremonies were, however, encouraged to become official marriage officers registered with the Department of Home Affairs, which legalized the ceremonies they performed. In the wake of a recent court decision addressing the situation of persons who had been married in Muslim ceremonies in Western Cape Province, the authorities were considering the adoption of a unified law on marriage, inter alia to address the situation of persons who had in the past been married in religious ceremonies without official registration. Under the Children's Act, the age of consent to marriage was 18 years, except in cases where parents gave their consent and the Minister of Home Affairs agreed, in which case marriage could exceptionally take place from the age of 15 years.

62. South Africans were proud of their multicultural society, which embraced cultural differences. The application of European or North American morality was not necessarily appropriate in South African society. Practices such as virginity testing were a traditional part of Zulu culture, for instance. By law, only girls over the age of 16 could take part, and only if they consented. Polygamy existed in traditional African society and in many Muslim communities, and the Western Cape High Court's judgment addressing Muslim marriage had accepted the legality of polygamy. It would be wrong for the Committee to judge such practices as virginity testing and polygamy or to impose a certain type of morality without taking into consideration the traditions and history of the peoples of South Africa.

63. *Ukuthwala* was a practice linked to the payment of bride price, or *lobolo*. When the bride's and groom's families could not settle on a price, the couple often eloped. If there was no consent by either family, that amounted to an abduction and was clearly a criminal act, incurring heavy penalties. South African human trafficking legislation imposed severe sentences on anyone who forced someone to marry them for the purpose of making the spouse work. Even before the adoption of the current legislation, a person had been convicted and sentenced to 15 years of deprivation of liberty for such an act, and the sentence had been upheld on appeal, with participation by traditional leaders as friends of the court.

64. **Mr. Mkhize** (South Africa) said that, even in customary marriages, there were provisions for the protection of the woman, including prenuptial agreements on how to divide the family's estate and the requirement, in polygamous marriages, for the consent of the first wife. The Government had, after consultation with imams, adopted a programme to ensure that Muslim marriages were recognized, and it intended to implement the court decision recognizing Muslim marriages.

65. **Ms. Mxakato-Diseko** (South Africa) said that, without invoking cultural exceptionalism, she felt that an additional reason for the acceptance of virginity testing related to the HIV/AIDS pandemic. The official campaign to stop the spread of HIV/AIDS had included, among other things, calls for abstinence. One community had, on its own initiative, adopted virginity testing as a way of incentivizing abstinence among young people. However, its decision had led to an immediate outcry calling on that community to rethink its stance. She thus doubted that similar steps would be taken in the future.

66. It would be a mistake to say that the legacy of apartheid had been left behind. It was only the generation that had been raised since 1994 that had been raised in a context free from many of the constraints of apartheid. She herself had never visited white suburban areas prior to 1994, as doing so would have placed her in jeopardy of arrest for loitering, under the Vagrancy Act, owing solely to her race. The Government was of course committed to the Covenant and had adopted, for instance, unified education and health systems, ensuring equality of service, where previously, under apartheid, there had been none.

67. It should be remembered that many people had died to secure workers' rights, which were now more or less taken for granted. The legacy of apartheid could not be erased easily. She hoped the Committee would take into account the progress made by the country and the very serious challenge of how to effect a deep change in society, while giving some recommendations on how to proceed in the future.

68. **Mr. Jeffery** (South Africa) said the law stipulated that children had the right not to be subjected to social, cultural and religious practices that were detrimental to their well-being, that genital mutilation or circumcision of female children was prohibited, that virginity testing of children under the age of 16 was prohibited and could only be performed on children over 16 years of age with the child's consent after counselling, that results of such testing could not be disclosed without the child's consent, and that the body of a child who underwent virginity testing could not be marked.

69. **Mr. Mkhize** (South Africa) said that, although the delegation could not provide precise figures, it was clear that racial intermarriage occurred in South Africa. South African citizenship could be obtained either by birth, if one parent was South African; by descent, for example, in cases of adoption of foreign children by a South African parent; or through naturalization. According to a law passed in 2013, when foreign children born in

South Africa reached the age of 18 years, the age of majority, they were allowed to choose whether to accept South African citizenship. The law was not retroactive, and for those persons who had reached the age of 18 prior to its adoption, the previous rules still applied.

70. The challenges faced by South Africa were unique. Fraudulent birth registration had become a problem, as traffickers claiming to be parents, or even the children's parents themselves, lied to obtain citizenship for their children, sometimes with the aim of securing grants or other social benefits. It was in that context that the authorities had used DNA testing to verify that children registering as South African citizens were indeed the children of citizens. It was difficult otherwise to establish with any certainty the identity of children who were not born in hospitals or whose births were not immediately registered. DNA testing was thus used as a means of proving identity in cases of late registration of births.

71. The assessment of birth registry problems had revealed not only fraudulent registration of non-citizens, but also a problem whereby large numbers of South Africans failed to register their children. Efforts to encourage birth registration had had little effect, so the Government had issued a warning, calling for parents to register their children within a certain period, failing which there would be consequences. The Department of Home Affairs had not yet decided on the level of fines or fees that would be levied. The reason for the fees was not punitive; it was to ensure the integrity of the system and to build trust in the system for recognizing citizenship. The authorities wanted to work with civil society to ensure that, in accordance with the law, all births were registered. South African children who were registered were issued with an identity number. Foreign children were issued with birth certificates, which allowed their parents to apply for documentation from their countries of origin.

72. The national health laboratories and other laboratories that handled DNA tests had to be registered by the Government to ensure that test results were of high quality and not suspect. Parents could choose any laboratory, as long as it was certified to carry out the procedure.

The meeting rose at 1 p.m.

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Committee on Economic, Social and Cultural Rights

Sixty-fourth session

Summary record of the 44th meeting

Held at the Palais des Nations, Geneva, on Wednesday, 3 October 2018, at 3 p.m.

Chair: Ms. Bras Gomes

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(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Initial report of South Africa (*continued*)

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The meeting was called to order at 3.05 p.m.

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Initial report of South Africa (*continued*) (E/C.12/ZAF/1; E/C.12/ZAF/Q/1 and E/C.12/ZAF/Q/1/Add.1)

1. *At the invitation of the Chair, the delegation of South Africa took places at the Committee table.*

2. **Mr. Makhosi** (South Africa) said that, under the National Development Plan, it was envisaged that, by 2020, there would have been a significant shift in the equity, efficiency, effectiveness and quality of health-care provision and that universal health coverage would be available. That coverage would be provided through the National Health Insurance scheme. The health system would be set up to serve the needs of all persons, regardless of ethnic origin, socioeconomic status or ability to pay for health-care services. The white paper on national health insurance for South Africa referred to the six building blocks of a health system, as identified by the World Health Organization, and to Sustainable Development Goal target 3.8 on achieving universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all. The National Health Insurance Bill had enshrined those elements in a human-rights based approach, as set out in its preamble, and referred specifically to article 12 of the Covenant. The Bill had been published in June 2018 and opened for public comment for three months. Once those comments had been considered and consolidated, the Bill would be submitted to Parliament for consideration.

3. The Government was currently working to implement the decision of the High Court in Pretoria related to the development of an intersectoral policy and implementation plan on access to education, health care and other social services for children with mental disabilities or behavioural difficulties.

4. The public sector was struggling to attract doctors, who could earn much higher salaries in the private sector. The National Health Insurance scheme would address that issue, along with other disparities regarding access to quality health care.

5. Work was ongoing to develop guidelines on exercising the choice to terminate pregnancy, and comments had been requested from the relevant stakeholders. Any issues raised by them would be presented to the National Health Council in October 2018. The South African Law Reform Commission was currently reviewing all health legislation, in order to align it with the Constitution and the international obligations of South Africa. The public would be invited to contribute to that process.

6. **Ms. Makubalo** (South Africa) said that the provision of baby formula free of charge at medical centres had been discontinued, the number of mother-and-baby-friendly facilities had been increased and several media campaigns promoting the benefits of breastfeeding had been run, with the support of a number of high-ranking political figures. The Basic Conditions of Employment Act provided for breastfeeding breaks at work, and efforts to ensure the implementation of the relevant provision were ongoing. A workplace breastfeeding package had been developed, along with various other related initiatives.

7. Termination of pregnancy on any grounds by a registered nurse or midwife was legal up to the twelfth week of pregnancy. The procedure could be carried out between the twelfth week and the twentieth week by a doctor in cases of risk to the mother's health, rape or incest. From the twentieth week onwards, termination could only be performed in cases of risk to the mother's health.

8. Work was ongoing to prepare for the roll out and implementation of the National Health Insurance scheme, including through a number of pilot projects.

9. **Mr. Toolo** (South Africa) said that the adoption of the Extension of Security of Tenure Amendment Bill had been completed and the instrument was awaiting signature by the President. The Bill made provision for grants, similar in amount to those provided by the Department of Human Settlements, for persons evicted from farms, to ensure that they had access to equal or better housing or settlement. Many commercial farmers were currently offering land for use by others. The authorities were looking into the possibility of introducing a peer-based monitoring system for farmers, to address the land needs of farm dwellers and to prevent any abuses from being committed. Compulsory mediation related to potential evictions had been successful in the past. The information made available to the Committee regarding allegations of corruption linked to the Comprehensive Agricultural Support Programme and the Recapitalization and Development Programme was not representative of the overall situation and did not tally with government statistics in that regard. Sections 25 (6) and (7) of the Constitution referred to redress for, the granting of tenure to or restitution of property to persons who had lost land or legally secured tenure as a result of racial laws and practices. The Government was ensuring that black Africans victims of those racial laws and practices, rather than wealthy individuals, benefited from land reform. The National Development Plan referred to an integrated and inclusive rural economy, rather than to rural welfare. The aim of the Plan was to improve access to land, achieve food security and end hunger, while building an inclusive economy. Regarding the cost of land acquisition, for the first few years' work would focus on State-owned land, meaning that the money that would otherwise have been spent on land purchases could be channelled towards land development. A recently established interministerial committee provided a platform for the more effective rationalization of government resources and the provision of support to land development efforts. The authorities were working with banks, including the Land Bank, to ensure that optimal use was made of government resources. Moreover, under section 25 (5) of the Constitution, the Government could take a number of measures to obtain additional resources, should need be. The principal beneficiaries in that regard would be members of the poorest sections of rural and peri-urban black African communities, particularly women, young people and persons already involved in agriculture.

10. **Mr. Vawda** (South Africa) said that, of the 16 million households covered by the 2016 General Household Survey, 13 million were in formal housing, that figure having increased by 8 million since 1994. In total, 50 per cent of that formal housing had been State-funded, through a capital subsidy provided to households. Some 1 million persons lived in traditional dwellings, which were not necessarily inadequate. Around 2.3 million persons lived in informal, inadequate accommodation, of whom 1 million lived on privately held land in backyard shacks with relative security of tenure, infrastructure and access to basic services but inadequate shelter. Some 1.2 million households lived in informal settlements. Consequently, 20 per cent of the national population lived in inadequate housing. The standard size of adequate housing units had been increased to 40m^2 in 2007, with the capital subsidy being raised from 36,000 rand (R) in 2009 to R 116,000 in 2018. Since the lifting of restrictions on movement within South Africa in 1994, there had been a wave of migration to the cities. The rate of urbanization currently stood at around 60 per cent and was set to rise to 80 per cent by 2050. The national housing programme for persons earning under R 3,500 per month had delivered an average of 130,000 housing units per year during the first few years since its launch in 1994. However, that figure had fallen to around 100,000 by 2018, it being impossible to keep up with the pace of migration. Consequently, there had been a significant increase in the number of informal settlements. The average household size had fallen by 25 per cent in recent years, increasing demand for housing. In 2007, the Government had launched a programme to upgrade the 2,700 or so informal settlements in South Africa. However, most municipalities had focused on relocating inhabitants of informal settlements, rather than on in situ upgrading work. That relocation-based approach had led to high levels of unauthorized occupation of land. An urban settlements development grant had been created to help reverse the trend of relocation and promote the in situ upgrading of informal settlements.

11. Under section 26 (3) of the Constitution, evictions could not be carried out without a court order, and the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act of 1998 had been adopted in that regard. Despite that legal framework, the courts had,

for several years, allowed landowners to evict unauthorized occupants under common law. Following the 2001 Constitutional Court ruling in the case *Government of the Republic of South Africa and Others v. Grootboom and Others*, the courts had built up a large body of rulings on housing and the right to housing. The following set of principles had emerged from those rulings: evictions could not be carried out without alternative accommodation being provided; evictions could no longer be employed as a preventive measure; and municipal officials must be held accountable for the way in which evictions were dealt with. The courts had also ruled that municipalities and the national Government were jointly responsible for finding resources to pay for housing. Ministers and Members of Executive Councils Meetings on housing affairs were monitored in the interests of accountability. The Minister of Human Settlements had demanded that municipalities observe the requirements of the courts relating to evictions. Meetings had been held on a regular basis with non-governmental organizations and with the South African Human Rights Commission on evictions, responses to evictions and intervention on the part of the Department of Human Settlements.

12. **Ms. Mxakato-Diseko** (South Africa) said that her country was the largest producer of medical isotopes in the world after Canada and, when required, assumed responsibility for ensuring the continuity of the global supply. Consequently, there was a heightened awareness of safety protocols as mandated by the National Nuclear Regulator and in accordance with agreements of the International Atomic Energy Agency (IAEA). It would be helpful to know what sources had prompted the Committee's concerns regarding the SAFARI-1 research reactor in Pelindaba, as she could find no evidence of relevant reports by IAEA, which was permitted to inspect the facility. She was a former Chair of the South African Nuclear Energy Corporation, which implemented robust radiation safety standards. She could not recall any incidents involving workers at the Pelindaba facility, where workplace safety plans were rigorously followed and an employee welfare mechanism was in place. There was perhaps a perception that, as a developing country, South Africa could not be trusted to produce isotopes, yet it had been doing so safely for years.

13. **Mr. Chen** said that waiving the requirement of a permit for protests and demonstrations was arguably too liberal an approach that left the door open to abuse of the right to protest and was not conducive to the maintenance of law and order or the enjoyment of human rights. On another note, he would welcome comments from the delegation on the issues of drug abuse and illicit trafficking, which had an impact on the right to health.

14. **Mr. Windfuhr** (Country Task Force) said that he would appreciate further information on the right to food. In particular, the delegation should respond to reports that 26 per cent of children were stunted, which pointed to a high incidence of chronic malnutrition.

15. **Ms. Shin**, noting that the Constitution prohibited discrimination on the basis of, among other factors, gender, sex, culture and religion but that domestic legislation also recognized customary marriages, said that the practices of polygyny — in the absence of polyandry — and virginity testing (with or without the written consent of the interested party) were discriminatory against women and girls. She asked what was done in the event of a clash between the Constitution and the principle of non-discrimination as enshrined in article 2 of the Covenant, the principle of equality between men and women as set out in article 3 or the right of everyone to take part in cultural life under article 15. In that connection, she wished to draw the delegation's attention to the fourth thematic report of the Special Rapporteur in the field of cultural rights (A/67/287), on the enjoyment of cultural rights by women on an equal basis with men, in which reference was made to "the right of women to have access to, participate in and contribute to all aspects of cultural life", which "encompasses their right to actively engage in identifying and interpreting cultural heritage and to decide which cultural traditions, values or practices are to be kept, reoriented, modified or discarded". The argument that different cultures should be respected had to be balanced against an acknowledgement that culture was not monolithic and evolved over time. In the case of virginity tests, it should also be borne in mind that consent could be manipulated. There was a need for a social dialogue on discriminatory practices.

which the Government should take an active role in eliminating, including through legislative amendments.

16. **Mr. Sadi** (Country Task Force) said that, if the Committee was to take into account the cultural diversity of the State party when making recommendations concerning sensitive issues like virginity testing, the delegation should, in turn, respect the cultural unanimity of the Committee with regard to discriminatory practices. It was far-fetched to expect a woman or girl of any age to consent willingly to a practice as degrading as virginity testing.

17. **Mr. Uprimny** said that the State party had, for decades, been resorting to aerial spraying to control cannabis cultivation in the Province of Eastern Cape, especially in the Pondoland region, with poor results. Noting that one of the herbicides used, namely glyphosate, had been exposed as carcinogenic by the World Health Organization, he asked whether the Government would turn to dialogue instead.

18. Although the use of cannabis for medicinal purposes was legal in South Africa, the Medicines Control Council had made the issuance of a cultivation licence contingent on adherence to very strict technical standards that most community members in the Pondoland region were unable to meet. Accordingly, he would be interested to know whether consideration had been given to establishing special treatment for those communities, so as to control illicit cannabis use while enabling them to enjoy an adequate standard of living.

19. **Mr. Kedzia** said that, according to research cited in a report published by the Center for Health Journalism on 15 August 2018, 13 per cent of the combined populations of Cape Town, Durban, Johannesburg, Mthatha, Pietermaritzburg, Port Elizabeth and Pretoria was living with hepatitis C. In the same report, a representative of the Department of Health had been quoted as saying that anti-hepatitis C drugs on the market since late 2013 and found to be 99.8 per cent effective had not yet been approved by the South African Health Products Regulatory Authority. He wished to know whether that was true and whether there was any detailed and reliable information on the prevalence of hepatitis C in South Africa.

20. **Mr. Windfuhr** said that, according to a report published by a civil society organization in August 2018, in many municipalities, only a small percentage of applications for protest permits had been successful and, when approval was given, it was often subject to compliance with certain conditions, some of which were not laid down in the Regulation of Gatherings Act. He invited the delegation to comment on the matter.

21. **Mr. Jeffery** (South Africa) said that his country was a democracy and that the Government therefore had to implement the will of the people. It was important not to forget the past, when certain groups that had been regarded as inferior by white South Africans had been unable to practise their culture. Because of that, article 31 of the Constitution provided that "persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community" "to enjoy their culture, practise their religion and use their language". The requirement of consent for virginity testing was clearly established in the Children's Act of 2005. There was no culture of polyandry in South Africa. By contrast, both virginity testing and polygamy were practices that were supported and enjoyed by men and women from different cultures. That fact should be respected, and the imposition of moral judgments on entirely consensual practices avoided.

22. Two weeks previously, the Constitutional Court had legalized the use of cannabis in private places. The Court had left it to Parliament to determine the personal possession limit, but its judgment was likely to bring about changes with regard to the destruction of cannabis plantations and existing restrictions on the cultivation of cannabis for medicinal purposes. In South Africa, the legality of cannabis was also a religious issue, as there was a significant Rastafari movement whose followers smoked cannabis as part of their religion.

23. **Ms. Makubalo** (South Africa) said that it did sometimes take a while for the South African Health Products Regulatory Authority to approve the use of new drugs. Stunting, which was associated with low socioeconomic status, was a cause for concern. It was being

tackled from a developmental angle, including through programmes carried out in schools and clinics to promote nutrition and healthy eating.

24. **Mr. Landers** (South Africa), recalling a protest that had taken place in Cape Town some years previously, following which the South African Transport and Allied Workers Union had been found liable for the damage caused by its members, said that, if the Committee was aware of specific examples of cases in which applications for protest permits had been unjustly denied, it should make them known. Older generations in South Africa had lived through an era when public assemblies had been met with incredible violence. Because of that, the right to protest was cherished, but there was also an awareness of the importance of respecting the rights of people who might be affected by a protest despite not having participated in it.

25. **Ms. Mxakato-Diseko** (South Africa) said that she belonged to a generation of protestors who had rallied against a political system that had had no legitimacy whatsoever. Many of her young comrades had died fighting for the right to education. She would be unable to explain to them the burning down of libraries and schools in a democratic South Africa, the destruction of infrastructure that gave effect to a right that had been so hard-fought.

26. The Government should facilitate an honest discussion of polygamous marriages and virginity tests with the full involvement of the women affected, but it would not impose legal changes. The specific cultural contexts and the choices of the women involved must be respected. The Government would legislate against such practices if called for by public demand.

27. **Ms. Shin** said that she agreed that social change could not be imposed, but the Government could take a more proactive role while respecting the needs of individual communities.

28. **Ms. Crăciunean-Tatu** (Country Task Force) said that the country had made significant progress in ensuring universal free primary education. However, she wished to know how the Government addressed the reported practice that some non-fee-paying schools charged "voluntary contributions", with learners denied access to classes or learning materials if they did not pay. It would be also helpful to have further information on the process for obtaining payment exemptions in fee-paying schools, which was not transparent and required information on the income of both parents.

29. There appeared to be discrepancies in the statistics on the number of children with disabilities who did not attend school. She wished to know whether the Government had an action plan to ensure that children with disabilities had access to free primary education; whether measures were envisaged to ensure they had access to secondary and tertiary education; whether the data-collection system would be improved, in order to provide transparent and disaggregated data on the number of children with disabilities who were not in school; and whether further funds would be allocated to data collection. It would be useful to know whether the Government was planning to guarantee immediate and non-discriminatory access to primary education to children with disabilities, and whether it would take into account inclusive education and the right to attend mainstream schools.

30. There were an estimated 1.5 million undocumented migrants in the country, of whom almost 200,000 were under 19 years of age. Under customary international law, States had a responsibility to respect the right to education of undocumented child migrants, refugees and asylum seekers, as well as the South African-born children of undocumented parents. She would appreciate information on plans to guarantee schooling for those undocumented children who were not in formal education.

31. In view of ongoing consultations to develop a policy on the management and prevention of teenage pregnancy, she wished to know how the Government would ensure that the policy would reflect and address the needs of young parents, and that the right to education of teenage parents was not treated as a secondary concern. Moreover, she wondered how the Government would improve the acquisition of foundational numeracy and literacy to reduce the school dropout rate, including among teenage parents.

32. The funding allocated to basic school infrastructure had decreased in the 2018/19 national budget, even though almost 50 per cent of schools lacked basic facilities. She would appreciate information on measures to mitigate the impact of budget cuts, including cuts to the Learner Transport Programme, which had disproportionately affected children in KwaZulu-Natal, Limpopo and Eastern Cape provinces. Moreover, she wished to know whether the Government was aware of the lack of guidance on the role and responsibility of private sector actors in education, and whether it would develop a more robust regulatory framework.

33. In view of the low rate of Internet access in some rural areas, she wished to know whether the Government was considering an Internet access plan or any measures to reduce Internet costs. Moreover, it would be useful to know what were the most pressing concerns when discussing the regulation of social media, and how those concerns would be reflected in the law in respect of free access to the Internet.

34. Considering the lack of protection for endangered languages and the absence of indigenous languages from the public school system, she would appreciate information on the activities of the Pan South African Language Board, and on plans related to the development and resuscitation of endangered languages, such as the languages spoken by the Khoi-San. In addition, she would welcome written information on the mandate of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities.

35. **Mr. Jeffery** (South Africa) said that the Pan South African Language Board was constitutionally required to protect the Khoi, Nama and San languages, as well as dialects of those languages. However, some dialects had died out because of colonial rule, and the area was a complex one, linked to the numbers of speakers.

36. It was illegal to charge fees in non-fee-paying schools or to force parents to make payments, and any such cases should be reported. Regarding fee-paying schools, fee exemptions depended on the income of both parents because both parents had a responsibility to support their child financially. Moreover, he would appreciate information on the source of the Committee's statistics related to children with disabilities. The Deputy Minister of Home Affairs had addressed the issue of undocumented migrants the previous day. An evaluation of the Learner Transport Programme was being carried out, as mentioned in the State party's replies to the list of issues.

37. **Ms. Manona** (South Africa) said that, in order to reduce the school dropout rate, the Government had introduced care support services, in addition to the existing core curriculum services. Literacy and numeracy programmes had been launched in primary schools to improve pupils' foundational education, as well as initiatives to ensure that teachers had the necessary knowledge and skills. The national syllabus had been revised to prepare learners for the contemporary labour market, and new support materials for teachers and learners had been introduced following the adoption of the National Curriculum Statement and Curriculum Policy Assessment Statement. Learner attainment strategies had also been introduced at the provincial level to align the support provided in different areas, in addition to instruments enabling teachers to ensure that the curriculum had been fully covered by the end of the school year, and to monitor and report on that coverage.

38. In order to emphasize the foundational importance of literacy and numeracy, a new reception year had been introduced at the beginning of primary school and had been completed by over 90 per cent of current grade 1 pupils. Moreover, as education was delivered in a vehicular language, normally English, from grade 4 onwards, children were now taught in both their mother tongue and the second language until grade 3, in order to reduce anxiety among teachers and learners.

39. The policy on the management and prevention of teenage pregnancy would take into account issues related to the overall sexual and reproductive health of young mothers. The Government aimed to ensure that all relevant parties and stakeholders were consulted before any policy development process was finalized.

40. In order to reduce the school dropout rate, the Government had introduced vocational and occupational streaming, as well as programmes to identify learners at risk of dropping out and to provide support to learners repeating a class. In addition, learners who had not completed the final year of school could enrol in classes at designated educational centres, where they were provided with the necessary learning materials and support.

41. In order to support vulnerable children, the Government had introduced the National School Nutrition Programme, which provided healthy meals to a significant proportion of learners on a daily basis. In addition, enrichment programmes provided learners with opportunities to learn about and practise cultural and sporting activities.

42. **Mr. Mkhize** (South Africa) said that, while section 36 of the Constitution placed limits on certain rights, mechanisms were also in place to ensure that section 36 was not abused. The Pan South African Language Board, which reported to the Department of Arts and Culture, was constitutionally required to promote respect for other languages in addition to the official languages. The Board designed and enforced policies on language to be implemented by the provincial education departments. In that connection, the revision of the 1996 White Paper on Arts and Culture included a section on indigenous knowledge systems. In 2017, the Board had partnered with Exclusive Books to develop dictionaries for various indigenous languages, including scientific terminology. Students who worked on the development of translation glossaries for African languages were eligible for a bursary from the Department. The measures were part of efforts to ensure that indigenous languages were developed fully so that they could be used on a par with English, Afrikaans and other languages.

43. He was curious as to how the Committee had arrived at the figure of 1.5 million undocumented migrants as, by definition, an undocumented person was not known to the authorities and therefore could not be counted. Considerable efforts were being made to ensure that children were registered, but fear of deportation often pushed undocumented migrants to avoid interaction with the authorities. The Office of the United Nations High Commissioner for Refugees was very clear about not splitting up families, and there was no policy to deny access to school to children of undocumented migrants.

44. **Mr. Landers** (South Africa) said that he welcomed and agreed with most of the criticisms levelled at South Africa regarding the right to the Internet. The Government had taken steps to make the Internet available to most South Africans, in particular the poor, working class and unemployed. For example, social compacts had been signed between the national and provincial departments of education and the private sector; major mobile phone and data providers, as well as software and hardware companies, ensured access to the Internet in many non-fee-paying schools; and some large cities had made Wi-Fi freely available in hotspots and public libraries. However, those initiatives were inadequate: implementation was ad hoc and there was a lack of synergy and functional coherence between the three spheres of government and private sector corporate social investment programmes. Other constraints included the high cost of devices, competition and market structure issues, and a fragmented policy and regulatory framework. Delays in awarding additional radio spectrum, which provided the infrastructure for Wi-Fi access in rural areas, were a particular challenge.

45. The Government had begun to address some of the constraints related to policy and functional intergovernmental coherence. The National Development Plan referred to the need to maintain and expand the information and telecommunications infrastructure to achieve economic growth and social development goals. In addition, the national broadband policy recognized that the population, especially in poorer and rural areas, needed high quality broadband in order to participate in the digital economy and access health care, education and other public services. The Minister of Telecommunications and Postal Services had recently submitted a draft policy for consultation that would pave the way for awarding high-demand spectrum and increasing infrastructure sharing.

46. However, the greatest challenge hampering universal access to the Internet remained the high cost of broadband data, whose provision and infrastructure development were controlled by the private sector. Data costs remained among the highest in the world, but private sector actors had resisted lowering them, citing reasons such as investor pressure,

unreliable exchange rates, governmental permissions and delays in approval, and access to spectrum. The President, in his address to the International Telecommunication Union the previous month, had called for a digital agenda for inclusivity, sustainability and development. Although 20 million South Africans did not use the Internet, some 87 per cent of households had access to a mobile phone, presenting a great opportunity to overcome digital exclusion and drive inclusive growth and innovation.

47. The Government had recently decided to accelerate the licensing of radio frequencies to hasten the growth of mobile communications. Furthermore, it had finalized consultations with the telecommunications industry and other stakeholders with the aims of ensuring the allocation of spectrum, reducing barriers to entry, promoting competition and reducing costs for consumers. The Independent Communications Authority of South Africa was preparing to license available high-demand spectrum. Civil society was playing an increasing role in pressuring the private sector to lower the cost of data. South Africa continued to strive towards a seamless, resilient and universally accessible information infrastructure that would meet the needs of citizens, businesses and the public sector and enable them to participate effectively in economic and social affairs.

48. **Mr. Jeffery** (South Africa) said that he took the point about the need for better data. It was true that some documents of the Department of Basic Education referred to hundreds of thousands of learners with disabilities not being enrolled in school, but another source had 92.5 per cent of them as attending school in 2013, which compared not too poorly to the overall enrolment rate. However, the picture was different when it came to post-compulsory education: only 70.3 per cent of learners with disabilities aged 16 years or older were in school. The hope was that State-run schools for disabled children becoming non-fee-paying establishments would have a positive effect on enrolment. Work was under way on a cybercrime bill, but restrictions on social media would be limited to cases where social media were used to incite violence against a person, group or property.

49. **Mr. Uprimny** said that one of the best ways of reducing social inequality was for a State to invest in early education for disadvantaged children. Given the disparities in enrolment between children from higher-income families and those from the lowest quintile, the State party ought to consider increasing its investment in that domain.

50. **Mr. Kedzia** said that he wished to congratulate the University of Pretoria for launching the Nelson Mandela World Human Rights Moot Court Competition, which had become a leading human rights education event and deserved to be recognized and supported.

51. **Mr. De Schutter** (Country Rapporteur) said that the dialogue had been of the highest quality and, although colonialism and apartheid had been mentioned as a cause of the current situation, the State party had never used them as an excuse; rather, it saw them more as a challenge and an opportunity. The State party's very progressive Constitution and independent and highly respected judges should be an example for many. It also had three national human rights institutions and a vibrant civil society, and he hoped that the dialogue would serve to support those actors. He looked forward to continued dialogue and hoped that the Committee's recommendations would be useful to the State party in its efforts to implement economic, social and cultural rights.

52. **Mr. Jeffery** (South Africa) said that there was also a human rights moot court programme at the secondary school level, which was to be rolled out in all establishments in the next academic year. The Government saw the programme as a very important part of constitutional and rights education.

53. It was heartening to see the levels of insight and the interest shown by the Committee in the work the country was doing. He wished to thank civil society for its input and continued commitment to the enjoyment of social and economic rights for all. Ratification of the Covenant had made a difference in the realization of social and economic rights in South Africa in many ways, whether through court judgments that referred to the Covenant, the influence of the Covenant on the expression of a particular right or the work of civil society to hold the Government to account. The country's commitment to treating economic, social and cultural rights on an equal footing with civil and political rights had also been illustrated in its leadership on Human Rights Council

resolution 4/7 of 30 March 2007, concerning a process to rectify the legal status of the Committee on Economic, Social and Cultural Rights with the aim of placing it on a par with other core treaty monitoring bodies. South Africa looked forward to advancing that important priority and welcomed the engagement of the Committee in the matter.

54. The delegation had taken careful note of the questions posed and had found the process conducive to assisting South Africa to further improve its relevant policies and programmes. It was important to stress that South Africa viewed the Covenant as a living document; therefore, the Government's positions were also not static or cast in stone. For example, it undertook to engage further with civil society organizations with a view to reconsidering its positions, where appropriate.

55. One crucial question put by the Committee was how the Government budgeted for social and economic rights. In that regard, the value added tax (VAT) rate had been increased to ensure the sustainability of public finances following large revenue shortfalls in previous years and substantial spending pressures, including the introduction of free higher education for lower-income students. The increase — the first since the introduction of the tax — came after substantial rises in personal income taxes and the introduction of a new top income tax rate of 45 per cent. Other taxes, including on capital gains, dividends and luxury goods, had also been increased. The increase in VAT would boost revenue and ensure a sustainable debt trajectory over the medium term. Nevertheless, an independent panel had been established to review and increase the number of zero-rated items, in order to mitigate the impact of the rise; its recommendations were currently being considered by the Government. The decision not to increase the corporate tax should be seen in the light of the country's past and current economic and financial architecture. South Africa was a young democracy and a developing country linked to a global financial system. Increasing corporate tax could result in a drastic loss of investment by domestic and foreign capital, leading to job losses and a weakened economy.

56. Approximately two thirds of the 2018 budget was allocated to realizing constitutionally mandated social rights, such as to education, health care, social security and housing. The budget was highly redistributive in favour of low-income families. It also redistributed substantial resources from the urban economy to fund services in rural areas. The division of revenue formula used to distribute resources to provinces and municipalities was governed by a transparent, rules-based arrangement. The matter of developing programmes with the National Treasury and the South African Revenue Service, which connected human rights and revenue generation, would be submitted to the bodies' respective heads. The National Treasury had already stated that it would consider incorporating human rights impact assessments into its budget-making process and ensuring that revenue targets were based on the cost of measures to realize Covenant rights.

57. South Africa looked forward to engaging with the Committee regarding the simplified reporting procedure and in connection with follow-up and the preparation of the next reporting cycle.

58. **The Chair** said that she was grateful for the interesting and constructive dialogue with the delegation, as well as non-governmental organizations and the national human rights institution. It should be noted that the Committee was driven solely by the provisions of the Covenant, not by any other considerations. She hoped that the concluding observations would be taken in the spirit in which they were intended and that the State party would remain engaged with the Committee.

The meeting rose at 5.55 p.m.

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Committee on Economic, Social and Cultural Rights

Sixty-fourth session

Summary record of the 45th meeting

Held at the Palais des Nations, Geneva, on Thursday, 4 October 2018, at 10 a.m.

Chair: Ms. Bras Gomes

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Initial report of Cabo Verde

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The meeting was called to order at 10.05 a.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Initial report of Cabo Verde (E/C.12/CPV/1)

1. *At the invitation of the Chair, the delegation of Cabo Verde took places at the Committee table.*

2. **Ms. Santos Lélis** (Cabo Verde), introducing the initial report of Cabo Verde, said that although her country had ratified the Covenant in 1993, the content of the report referred to the period from 2010 to 2015. The actions of the Government of Cabo Verde were guided by international law, the rights of peoples to self-determination, multilateralism, the rule of law and cooperation with the United Nations. The Constitution enshrined principles such as national independence, respect for human rights, equality between States, non-interference in the domestic affairs of other States, and cooperation and peaceful coexistence with all other peoples. All citizens had the right to apply to the Constitutional Court and to the Ombudsman for the protection of their rights. Economic and cultural rights had been established under the Constitution of 1992, following the fall of the single-party regime and the institution of a semi-presidential republic with separation of powers.

3. The Government implemented policies on equal rights of men and women in the belief that they would lead to a fairer society. It aimed to build social cohesion and strengthen citizenship by reducing poverty and social inequalities, ensuring equity in access to education, health and housing, and guaranteeing decent living conditions, cultural values, respect for human rights and the integration of minorities and persons with special needs. Accordingly, social policies were aimed at the family and vulnerable groups, including women, the elderly and persons with disabilities, and included a focus on ensuring access to essential services. The State was intent on removing obstacles to equality of opportunity, especially those that contributed to discrimination against women in the family and in society. Act No. 84/VII/2011 on Gender-based Violence, adopted in 2011, and its implementing regulations, adopted in 2014, included preventive measures and measures to protect the victims of gender-based violence. During the judicial year 2017/18, 2,080 prosecutions for crimes of gender-based violence had been brought before the courts — 512 fewer than in the previous year — and 4,029 cases, including some from the previous year, had been resolved. Gender equality policy was coordinated by the Cabo Verdean Institute for Gender Equality and Equity, which worked with several civil society organizations active in that field. Moreover, the Government had implemented successive plans and programmes, most recently the National Plan on Gender Equality for 2015–2018, which provided a framework for activities aimed at promoting the equal rights, duties and opportunities of men and women and the effective and visible participation of women in all spheres of social life.

4. In the educational sphere, Cabo Verde had achieved gender parity in access to basic education, while girls outnumbered boys in secondary and higher education. Although women still presented a lower literacy rate, with illiteracy mainly affecting older women and women in rural areas, the gap was narrowing. The overall unemployment rate had dropped from 15 per cent in 2016 to 12.2 per cent in 2017; for men, the figure had fallen from 12.9 per cent to 11.8 per cent, and for women from 17.4 per cent to 12.8 per cent. Women had accounted for slightly less than half of the unemployed population in 2017. Although the share of women parliamentarians in the National Assembly had risen from under 4 per cent in 1991 to 26 per cent in 2016, women remained underrepresented in public office. In local government, only 26 per cent of councillors were women and no female mayors had been elected in any of the country's 22 municipalities.

5. In line with the Government's constitutional obligation to enable the exercise of the right to work, Cabo Verde had ratified 14 International Labour Organization (ILO) conventions, including the 8 fundamental conventions. The Bank of Cabo Verde, in its

Monetary Policy Report, had highlighted the positive impact of economic growth, as a combination of rising wages, employment and social security benefits had boosted disposable incomes. Household consumption had increased, while in 2018 the public-sector wage bill had swelled by 7.6 per cent, owing to the unfreezing of promotions and recruitment in various sectors of the public administration. Public-sector pay had risen by 2.5 per cent. The Government's programme for the current parliamentary term included policies and measures to stimulate employment, including incentives for the recruitment of young people, the co-financing of vocational internships, the promotion of entrepreneurship, and skills training for graduates. In 2014, the Government had introduced a national minimum wage for all salaried employees subject to the Labour Code, and had raised it from 11,000 escudos to 13,000 escudos in the first half of 2018. A system of unemployment benefits was in place. Freedom of association and the right to join a trade union were firmly established in labour practice and no violations of those rights had been reported; however, trade unions had complained to ILO that their right to strike was violated in circumstances where the Government invoked special labour requisition powers. The Government held regular meetings with employers and trade unions and had concluded a strategic agreement with them to promote economic growth, productivity and competitiveness within the framework of a fair and flexible social model.

6. About 227,000 workers were registered in the National Social Security System, with the number of beneficiaries having increased by over 12,000 in 2017. The Government planned to increase the value of the minimum social pension and was implementing the National Care Plan, which guaranteed access to care for more than 4,000 individuals in vulnerable situations, and the Social Inclusion Income programme, which aimed to create economic opportunities so that households could be self-sufficient.

7. Cabo Verde had established a solid framework for the realization of children's rights and had made good progress in terms of its education and health indicators. However, the Government acknowledged that some violations had occurred in respect of the right to a name, and had therefore launched the Registration at Birth project. It had also strengthened the capacity of the laboratory of the Judicial Police to respond to requests for paternity tests. The Strategic Plan for Education was aligned with the Sustainable Development Goals and incorporated the principles of respect for human rights, environmental sustainability, inclusion and diversity. Moreover, a new curriculum was being introduced with a view to improving students' employability.

8. Other government initiatives included an ongoing land registration initiative designed to guarantee property rights, a programme to renew housing and improve access to it, and the adoption in 2018 of the National Plan to Combat Trafficking in Persons. Cultural rights protected under the Constitution included the freedom of intellectual, cultural and scientific creation and the freedom to disseminate literary, artistic and scientific works. The Government recognized that it had an important responsibility to support and protect creators and to facilitate citizens' enjoyment of culture. Given that cultural projects boosted job creation and tourism, the Intersectoral Strategic Plan for Culture had been adopted with a view to developing tourism and growing the economy. There had been no reports of violations of cultural rights, apart from some complaints of copyright violation filed by the record industry against discotheques.

9. In conclusion, the Government would continue to promote social and economic reforms designed to improve living standards and guarantee the realization of the human rights of Cabo Verdeans.

10. **Mr. Zerbini Ribeiro Leão** (Country Rapporteur), highlighting the fact that many years had elapsed since Cabo Verde had ratified the Covenant and underscoring the importance of dialogue between the Committee and the State party, said that the Committee would look favourably on any future requests for assistance in relation to the timely submission of reports.

11. Observing that civil society organizations had participated in the preparation of the report, he said that he would be grateful for more specific information about that process. He would also like to know, in relation to the right to self-determination, how fair compensation was calculated in cases of expropriation and requisition of private property.

He would appreciate confirmation that there were indeed no ethnic minorities or indigenous peoples in Cabo Verde, and an explanation of why that was so.

12. He wished to know how the State party's legal, institutional and policy framework on non-discrimination, as described in paragraph 12 of the report, functioned in practice, and what specific policies were in place to combat discrimination against women. He would appreciate more information on the outcomes of public policies on equal rights for women and men, including statistics disaggregated by age group, urban and rural areas, and other factors. What steps had the State party taken to prevent discrimination, and what difficulties had it encountered in that regard? Had the State party formulated any public policies to promote equal responsibilities in the home? Noting that female judges accounted for 37 per cent of the total in 2015, he said that he would appreciate an explanation of how judges were nominated and how the State party guaranteed the independence of the judiciary.

13. The Committee would be interested to learn more about the status of the Covenant in the Cabo Verdean legal order, notably the relationship between the Covenant and the Constitution, and how the Covenant could be invoked before the courts. Was it possible for a person to invoke the Covenant before the Constitutional Court, for instance? The Committee congratulated the State party on its ratification of the Optional Protocol to the Covenant and wished to know how it was incorporated into the domestic legal order.

14. In the light of information received about corruption, including the practice of paying bribes to gain access to public health, education and anti-poverty programmes, he wondered what measures were being taken to address that problem and whether they had been successful. He would also be interested to know the extent to which the National Human Rights and Citizenship Plan for 2017–2022 was integrated with the Strategic Plan for Sustainable Development and whether it had been allocated an adequate budget. How did the State party guarantee the independence of the National Commission for Human Rights and Citizenship, and was the Commission allocated sufficient resources?

15. The country's age distribution was extremely young, notwithstanding a strong improvement in life expectancy in recent decades. The population growth rate, which had stood at about 2.4 per cent in 2005, had reportedly been expected to drop to around 1.9 per cent. The Committee would like to know whether it had in fact declined and whether the Government possessed any updated statistical information with disaggregated data on the population's age, sex and rural or urban geographic distribution. It would also appreciate information on the way the Government dealt with migration.

The meeting was suspended at 10.50 a.m. and resumed at 11 a.m.

16. **Ms. Santos Lélis** (Cabo Verde) said that the delegation would present more detailed statistical information the next day. Civil society and non-governmental organizations had taken part in a workshop prior to the preparation of the State party report and had issued a number of recommendations, and the report had been adapted accordingly.

17. Under the Constitution, international law and treaties were an integral part of the legal system and were to be considered directly by the courts. Ordinary legislation was, however, often adopted for the practical implementation of the international instruments to which the country acceded. The delegation could not say specifically how many times international treaties had been invoked by the courts, but it had clearly occurred.

18. When property was expropriated, compensation was based on an assessment of the property's market value. In the context of the country's history, no distinction was made between people's ethnic origins, so there was no need for any constitutional provision to protect specific ethnic groups.

19. The Government recognized that discrimination did exist in Cabo Verde in terms of access to income and wealth, and there was discrimination against minorities and persons living with disabilities. Accordingly, the National Programme for the Fight against Poverty emphasized the protection of such groups. For example, measures had recently been adopted to provide education free of charge for persons living with disabilities, and the national housing programme included provisions requiring a percentage of housing units to be accessible to people with disabilities. Gender violence was considered to be a form of

discrimination. The National Plan on Gender Equality had been adopted to address gender violence, and the authorities had campaigned for more active participation of women in decision-making and in political life. The principle of non-discrimination was enshrined in the labour legislation, which banned discrimination in recruitment, and in the criminal law. Discrimination was clearly prohibited. When it occurred in practice, appropriate measures were taken.

20. Responding to a series of questions raised by the Committee, she said that the authorities carried out campaigns to encourage men to assume more domestic responsibilities and to make child maintenance payments as required, but it was ultimately for the recipients of such allowances to press the case for payment. Fathers were allowed three days of paternity leave after the birth of a child. The Criminal Code included stiff penalties for corruption. User fees at health facilities were relatively inexpensive, and when patients were destitute, the fees were waived. Judges were appointed as a result of open, public competitions organized by the Superior Council of the Judiciary and the prosecution service. A constitutional reform in 2010 had strengthened the independence of the judiciary and had separated it completely from political considerations. The Government's role was limited to providing the infrastructure for the work of the judicial branch, whose autonomy and independence were ensured, inter alia, through annual reporting and stocktaking by the Superior Council of the Judiciary and other bodies. The national human rights plan was a priority for the Government, but there were admittedly budgetary constraints on its implementation. The budget of the national plan fell under the auspices of the National Commission for Human Rights and Citizenship, whose funding came from the budgets of the various government ministries concerned. The extension of life expectancy to over 70 years for men and 80 for women reflected the fact that a number of problems had been overcome, as people gained access to more income and better health care, and living standards had improved. A national migration strategy had been adopted in 2012 and had since been implemented; it was currently being evaluated with a view to adopting a second stage of the strategy. The Government fully understood that migrant workers required special protection.

21. **Mr. Sadi** said that the Committee would like to know whether the aim of the Government's gender policy was to attain relative equality, for example by reaching a certain quota of participation in public life by women, or to secure complete parity, with absolute equality of representation. It would be useful to the Committee if the delegation could give examples in which the Covenant had been cited by the courts. Failing that, could the delegation explain what measures were taken to ensure that government officials and policymakers were aware of the Covenant and its provisions? Lastly, noting that Cabo Verde was an archipelago, he asked how migrant workers arrived in the country, and from which countries of origin.

22. **Ms. Liebenberg** said that, as Cabo Verde was a small island developing country that had to deal with droughts and irregular rainfall, she would like to know how climate change had affected it and what measures the Government had planned to deal with the threats of climate change in the future.

23. **Ms. Shin** said that she would like to know about the situation of migrant workers from Cabo Verde who went to other countries, such as Portugal, for work. What role did they play in supporting the country's economy, for example through transfers of remittances? Did such persons obtain the nationalities of their host countries, and, if so, what happened to their original nationality and entitlements to social benefits in Cabo Verde?

24. **The Chair** said that she would like to know whether there were plans to amend the statutes of the National Commission for Human Rights and Citizenship to better ensure its independence and to bring it into line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). It was especially important to ensure the Commission's independence, as that body also served as the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. What steps were being taken to ensure that the Commission had sufficient resources to carry out its work? The Committee had carried out studies to ascertain whether in countries having

constitutional prohibitions against discrimination it was worthwhile to also have framework laws prohibiting discrimination specifically on the grounds foreseen in the Covenant. While Cabo Verde already had a number of safeguards against discrimination in various sectors, the Government might consider adopting such a framework law, which would make it possible to more thoroughly ensure compliance with the Covenant.

25. The Covenant called for the appropriation of maximum available resources to support the full realization of economic, social and cultural rights. She expressed concern that austerity and cost-cutting efforts might undermine the realization of the rights enshrined in the Covenant. Had there been a debate in Cabo Verde on the question of how to maintain support for human rights in times of budgetary constraints?

26. **Ms. Santos Lélis** (Cabo Verde) said that the ultimate aim of the State party's gender equality policy was to achieve parity, but there was a long road ahead. The country's cultural background had shaped mentalities regarding gender roles, and many women were ambivalent about taking up decision-making positions. A public discussion was currently being held in some parts of the country about the possible adoption of bills to ensure parity, but many people considered that such a law was unnecessary because women often simply did not want to take up such positions. The Government had, however, included the adoption of a law on parity in its programme.

27. The fact that the country consisted of nine islands meant that investments in basic health, education and other infrastructure had to be repeated nine times to ensure equal access to services. The country's small scale rendered the provision of many goods and services more difficult, which slowed economic growth. Cabo Verde was a member of the Economic Community of West African States (ECOWAS) and was not far from Senegal and Guinea. People from ECOWAS member States enjoyed freedom of movement and took flights to come to Cabo Verde in search of employment.

28. Cyclical droughts were a major challenge. In 2017 there had been a serious lack of rainfall. In recent years, certain policies had been aimed at saving water to reduce vulnerability, for example through the construction of dams, especially in rural areas, and the Government was encouraging the cultivation of value-added crops to reduce poverty and vulnerability among rural families. The impact of such policies was still being assessed. The terms for international cooperation had changed when Cabo Verde had been recognized as a middle-income country and had lost a number of funding options that had previously been available to it as a least developed country.

29. Cabo Verdean migrants in other countries outnumbered the resident population. The diaspora was scattered throughout the world, and their remittances played a key role in the country's economy, as they helped to improve the country's balance of payments. The Government had concluded economic welfare agreements with Portugal and Luxembourg, the two countries home to the largest communities of Cabo Verdean nationals living overseas. In 2019, the Government intended to double the level of the pension granted to Cabo Verdean nationals living on low incomes in Sao Tome and Principe. Cabo Verde recognized dual nationality.

30. The Government planned to extend the non-contributory pension regime as part of the ongoing development of the social security system. It also intended to expand the national care programme to provide carers, most of whom were women, with a more formal means of support, as well as opportunities for vocational and professional development so that they would no longer be reliant on the State.

31. Cabo Verde had struggled for a long time to ensure that the National Commission for Human Rights and Citizenship was fully independent, in line with the Paris Principles. The relevant statute was now ready but budget constraints meant that its application could not be guaranteed as yet.

32. A good constitutional and normative structure was in place with regard to non-discrimination. The Government was considering enacting a framework law in that area; however, it first needed to be sure that such legislation would be translated into practice.

33. Making resources available for the implementation of economic, social and cultural rights was a core concern of the Government. State spending was targeted mainly at health

care and education. Children were entitled to seven years of free schooling; that entitlement would be extended to eight years in 2019. The basic social pension would be increased from 5,000 escudos to 6,000. The Government also intended to increase the number of people covered by the social welfare regime to include 34,000 families, at a cost of 60 million escudos to the State.

34. **Mr. Kedzia** (Country Task Force) said that he would welcome clarification of the concept of the "duty to work", which was enshrined in the State party's Constitution. If that duty was understood to be a legal one, that would imply that forced labour was admissible under certain circumstances. He would also be grateful for more specific data on unemployment, including how the rate had fluctuated over recent years. It was unclear why there was a significant disparity in the unemployment rates for men and women aged between 15 and 24 years. He wished to know how many people were actively looking for work in the State party and what support they received in doing so. Further details would be welcome on the Public Administration Professional Internship Programme, including the number of people who had participated in it and its impact.

35. It would be interesting to have a full account of the steps the Government was taking to avoid any potentially negative effects of labour law reform, with particular reference to precarious employment. He would appreciate clarification of how the Government defined the informal sector. In particular, it was unclear what the term "informal production unit" referred to.

36. He wished to know how the wages of regularly employed workers compared to those of self-employed or informally employed persons engaged in the same activities. It was unclear why there should be a "need" for more self-employment, as referred to in paragraph 36 of the State party's report. It would be useful to know whether self-employed persons were covered by the social security system and, if so, in what form and to what extent.

37. He would welcome the delegation's comments on reports that the measures in place to uphold the rights of persons with disabilities remained largely ineffective. It would be helpful to receive specific data on the impact of measures designed to improve employment opportunities for persons with disabilities. It was unclear whether companies over a certain size were subject to a hiring quota for persons with disabilities.

38. He would appreciate details of the steps the Government was taking to combat discrimination against women in private-sector recruitment processes and against pregnant women and women with young children in the labour market in general. He would also welcome the delegation's comments on reports that persons living with HIV faced discrimination in the workplace.

39. The introduction of the minimum wage was a positive development; however, it was unclear whether it had been set at a level that was high enough to guarantee an adequate standard of living for workers and their families and whether it applied to agricultural and domestic workers. Information would be welcome on the percentage of employers who were not complying with the minimum wage requirements and on the steps being taken to enforce those requirements. It would be useful to learn how many adjustments had been made to the minimum wage since its introduction and whether those had been commensurate with the inflation rate.

40. It would be helpful to receive data on the number of work-related accidents that had occurred in the last five years. Details would be welcome on the procedure in place for obtaining compensation following such accidents. He would be grateful for information on the powers and capacity of the General Labour Inspectorate.

41. The Committee would appreciate the delegation's comments on the practical application of the legislation in force relating to trade unions and on the level of unionization in the State party. It was unclear whether all workers were freely able to join or establish unions. It would be useful to hear about any incidents that amounted to reprisals against trade union activists or members. The Committee was concerned about reports that ILO had received allegations of violations of the right to strike.

42. It was encouraging to note that the State party had been identified by ILO as having one of the most advanced social protection floors in Africa. It would be interesting to hear about the steps being taken to expand social security coverage from its current level of 40 per cent of the population. It would be helpful to learn how many individuals were of retirement age in the State party. It was unclear whether pensions and benefits paid under the unified non-contributory system had been set at a level that was commensurate with an adequate standard of living. Details would be welcome of any measures being taken to expand the contributory system.

The meeting was suspended at 12.10 p.m. and resumed at 12.15 p.m.

43. **Ms. Santos Lélis** (Cabo Verde) said that citizens' duty to work corresponded to their right to work. Since people enjoyed the right to work, they ought to use their working ability for the benefit of their country. Forced labour was prohibited, and the Government had established a list of hazardous jobs that were prohibited for children and adolescents.

44. The unemployment rate had fallen in recent years; more specific figures would be made available to the Committee in due course. Following amendments to the Statistics Act, the authorities would publish statistical data on a more regular basis to facilitate better monitoring.

45. The Government had set a target of creating 45,000 jobs during the current parliament. Employability was vital to the country's development; more engagement was needed with the private sector in order to move away from reliance on the public sector. The authorities had adopted measures to support businesses through funding for investment. The aim of the Public Administration Professional Internship Programme was to match skills to needs and create more pathways into the labour market.

46. Job insecurity remained a pressing issue. The Government had introduced legislation limiting the number of consecutive one-year fixed-term contracts to five. However, some fixed-term employment was inevitable in the construction and tourism sectors. The General Labour Inspectorate was conducting a survey to assess whether hotel owners were flouting the law by releasing some workers in order to be able to hire others on new fixed-term contracts. New regulations had been introduced allowing small family businesses to regularize their affairs; they were subject to a social security contributions rate of 4 per cent, much lower than the regular rate of 15 per cent.

47. Self-employed workers made social security contributions. So called "informal production units" formed part of the informal economy and did not pay taxes to the State. While there was no employment quota for persons with disabilities, a range of tax incentives had been introduced to promote their participation in the labour market. Tax advantages had also been made available to companies that hired young persons or persons from minority groups. The minimum wage of 11,000 escudos per month had entered into force in 2017. It had been adjusted to 13,000 escudos per month in 2018 and the Government intended to bring it into line with the current minimum public-sector wage, which stood at 15,000 escudos per month, by the end of its term of office. Domestic or agricultural workers holding an employment contract received the minimum wage. Severance pay was calculated according to length of service and applied to both temporary and fixed-term contracts. In cases of wrongful dismissal, employees received much higher compensation packages. Every worker had the right to join a trade union. There had been no reports of reprisals against the two trade union confederations or individual trade union members. The Government had signed a strategic agreement and held numerous social dialogues with employers and trade unions on a wide range of issues.

48. The social security system had been extended to include groups of workers such as gardeners and domestic workers. The Government planned to strengthen social service provisions by helping more people find gainful employment. The social pension system had evolved over the years to ensure that it was sustainable, and adjustments had been made on the basis of actuarial studies. The non-contributory system currently met around 20 per cent of basic subsistence needs; the Government intended to increase that percentage in the coming years. Further information on the social security system and on health and safety in the workplace would be provided in writing at a later date.

49. **Mr. Kedzia** asked what efforts had been made to take a rights-based approach to the 2015 labour market reform. He would be interested to hear the delegation's comments on reports that the Social Dialogue Council's work had been hampered by a lack of funding.

50. **Ms. Santos Lélis** (Cabo Verde) said that, in reforming the labour market, the Government had tried to strike a balance between upholding workers' rights and fostering economic growth, investment and productivity. The Government believed that it had succeeded in that endeavour. Prior to the reform, the country had been unattractive to foreign investors owing to the excessive rigidity of the labour market. Following the constructive social dialogue between the Government, employers and trade unions, the country found itself in a better position to welcome foreign direct investment and build a competitive economy. To guarantee the successful implementation of the labour market reform, the Government intended to increase the number of labour inspections conducted.

51. Two cases involving the right to strike of the police and public service providers had been brought before ILO in recent years. The Government did not systematically resort to labour requisitioning but had been forced to do so in those cases, since the minimum services provided for in law had not been met and the interruption of services would have posed a security risk to the population.

52. **Mr. Kedzia** said that he would be grateful for further information on the number of foreign workers in the State party, including whether they enjoyed the same rights and protections as Cabo Verdean citizens.

53. **Mr. Zerbini Ribeiro Leão** asked whether the Government had devised a schedule for future adjustments to the minimum wage.

54. **The Chair** said that she would like to know whether the Government had considered the principle of equal pay for work of equal value. Had any efforts been made to strengthen the social security system, including unemployment benefits for the most vulnerable persons, in the wake of the labour market reform?

55. **Ms. Santos Lélis** (Cabo Verde) said that foreign workers had the same rights and protections as Cabo Verdean citizens. Data on foreign workers would be provided in writing at a later date. Adjustments to the national minimum wage would depend on the inflation rate. Concerning equal pay for work of equal value, no differentiation existed between the salaries of men and women in the public sector. Private companies, however, devised their own remuneration policies. Employers and employees understandably had opposing views regarding the effects of the labour market reform, the Government had tried to strike the right balance between the interests of both parties. It intended to conduct a study into the impact of the reform by 2019 and would make any necessary adjustments then.

56. **Ms. Ravenberg** (Country Task Force) asked what efforts had been made to improve the living conditions of children and combat child poverty, neglect and abuse. She said it would be particularly interesting to learn what steps had been taken by the Government and the National Committee for the Prevention and Elimination of Child Labour to combat the worst forms of child labour. Further information on the findings of the two studies on child labour conducted in 2007 and 2013/14, including detailed statistics, would also be welcome. She would like to invite the delegation to inform the Committee of the results of the Registration at Birth project, including whether it had achieved its stated aim of reducing the number of unregistered children in the country.

The meeting rose at 1 p.m.

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Sixty-fourth session

Summary record of the 46th meeting

Held at the Palais des Nations, Geneva, on Thursday, 4 October 2018, at 3 p.m.

Chair: Ms. Bras Gomes

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Initial report of Cabo Verde (*continued*)

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The meeting was called to order at 3 p.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Initial report of Cabo Verde (*continued*) (E/C.12/CPV/1)

1. *At the invitation of the Chair, the delegation of Cabo Verde took places at the Committee table.*

2. **Ms. Ravenberg** (Country Task Force) said that she would be grateful for figures on poverty among children and in rural areas, and asked whether the National Programme for the Fight against Poverty mentioned in paragraph 160 of the State party's report had been evaluated, what results it had achieved and what follow-up had been given to it.

3. While the housing programme "Home for All" (Casa para Todos) represented a significant step forward, the Special Rapporteur on adequate housing had noted that it did not appear to be accessible to the poorest and most vulnerable members of society, who often could not keep up with utility bills and charges for the maintenance of communal areas and facilities. The Special Rapporteur had also identified an increase in the number of informal, unplanned settlements that lacked adequate services, issues concerning security of tenure and a risk of illegal eviction and demolition. She wished to know whether programmes carried out within the framework of the National Social Housing System, including Home for All, had been assessed to ensure that a greater proportion of technical and financial resources were directed towards upgrading existing homes and housing units, whether the services available in informal settlements had also been evaluated, whether housing policies were being adapted in response to those evaluations and what was being done by the Government to ensure that diverse forms of tenure were protected and that housing options for low-income households were expanded in a manner that took into account location and long-term affordability and sustainability.

4. Noting that according to paragraph 178 of the State party report, the water supply in 8.6 per cent of households was drawn from sources considered to be non-potable, she asked what steps were being taken to supply safe drinking water to all households, especially those in rural areas.

5. Article 12 of the Covenant, read in conjunction with article 2, required the State party to guarantee the enjoyment of the right to the highest attainable standard of physical and mental health without discrimination of any kind. As elaborated by the Committee in its general comment No. 14 (E/C.12/2000/4), that obligation included ensuring non-discrimination in the availability, accessibility, acceptability and quality of health care. The Committee had received reports that interviews undertaken by non-governmental organizations and studies conducted by researchers had identified persistent stigma and discrimination in access to health care for persons living with HIV. It would be interesting to know what measures were being taken to address the stigma and discrimination that prevented certain groups, including persons living with HIV, from accessing and enjoying health care without discrimination.

6. According to reports brought to the Committee's attention, information in Braille was not generally available in health-care facilities, women with disabilities could not enjoy their sexual and reproductive rights on an equal basis with other women because of a lack of appropriate training among medical staff, there was no access ramp to the rehabilitation centre on the island of São Vicente and such centres for persons with disabilities had been opened on only two islands. The delegation should describe the measures being taken to combat discrimination in the delivery of both public and private health-care services and to ensure that reasonable accommodation was provided.

7. Women victims of gender-based violence also allegedly had difficulty in accessing health care, partly because medical staff had not been adequately trained in how to recognize, treat and report such violence. She asked what was being done to ensure that

medical professionals received specialized training that would enable them to provide appropriate care to all persons without discrimination.

8. The Committee had been informed that, despite the opening of new health facilities and the recruitment of medical personnel, the provision of care remained an issue on some islands. There had been many complaints about a lack of inter-island transportation for patients and about delays in the decision-making process for internal and external evacuations, which had reportedly led to deaths. It would be helpful to know what steps were being taken to ensure the timely treatment, inter-island transportation and evacuation of patients throughout the country.

9. According to reports, there was a lack of adequate mental health facilities, as a result of which some people with mental illness were living on the streets, while others were kept at home by family members. The delegation should explain what steps were being taken to guarantee that people with mental illness could enjoy the right to the highest attainable standard of physical and mental health without discrimination of any kind.

10. **Ms. Santos Lélis** (Cabo Verde) said that the Government had adopted a national plan to tackle child abuse and exploitation, with a focus on prevention, punishment and support for victims, and that initiatives were being undertaken to raise awareness of the risks faced by children and of how signs of abuse could be detected.

11. Thanks to legislative amendments and the adoption of a new Civil Code in 2014, problems related to birth registration had been practically eradicated. Newborns could no longer be discharged from hospitals or health centres, where 98 per cent of births occurred, without being registered.

12. The National Institute for Children and Adolescents carried out constant monitoring of child labour and had disseminated a list of the worst forms of such labour. The General Directorate of Labour investigated any possible cases of abuse. Furthermore, the Government had drawn up a family empowerment programme that included a care plan aimed at protecting children from exploitation by integrating them into State preschool education and giving their mothers access to income-generating activities. In Cabo Verde, there was an expectation that children should contribute to their families' livelihoods. Consequently, many children engaged in some form of economic activity, but that had no impact on their school attendance.

13. The Home for All programme was designed to cater to different income groups. Of the three categories of dwellings covered by the programme, one was reserved for the poorest and most vulnerable members of society. In addition, 5 per cent of new builds had been constructed specifically for persons with disabilities.

14. Public money was being invested in water production and desalination, and the Millennium Challenge Corporation had played a vital role in overhauling the water industry in the country. Efforts were being made to improve access to water in rural areas by connecting properties to the national water grid.

15. Since Cabo Verde was an archipelago, health structures had to be duplicated in order to ensure coverage in all parts of the country. There were two central hospitals on the most highly populated islands and, over the years, other facilities had been built to improve the provision of health care. A recruitment drive was under way to address shortfalls in the numbers of specialist doctors and nurses, but problems in that area were expected to persist, at least in the short term.

16. A law had been adopted to strengthen the monitoring of accessibility standards in the public and private sectors. Recently built educational and medical facilities met those standards, but some older structures would need to be adapted. The Trindade psychiatric hospital in Praia offered consultations for persons with mental disorders. Patients could be transferred to the hospital from other islands if they needed to be institutionalized.

17. The two central hospitals, on the islands of Santiago and São Vicente, were the institutions with the greatest capacity and number of specialized doctors. The cost of all inter-island transfers to the hospitals was borne by the State. In recent times, there had been some changes to the air transport system in the country. Previously, a State-owned

enterprise had been responsible for inter-island transfers. The company that had replaced it had struggled at first because of the security requirements that applied to such transfers. However, the Government had, as an emergency measure, rented an aircraft to ensure that medical transfers could go ahead as normal. The determination of whether a transfer was necessary was entrusted to a medical board.

18. **Ms. Liebenberg** said that, as she understood it, although same-sex relationships were not criminalized in the State party, there was no legal framework for their recognition. She asked whether that was true and, if so, whether there were any plans to establish one.

19. Noting that the State party had been hit by several natural disasters, including Hurricane Fred in 2015, she asked what procedure was in place for evacuation and relocation, what mechanisms had been developed for disaster risk reduction and to what extent and how the State party had contributed to the Sendai Framework for Disaster Risk Reduction.

20. **Ms. Ravenberg** said that she wished to know whether legislation on birth registration covered births that did not take place in hospitals.

21. **Ms. Santos Lélis** (Cabo Verde) said that, although the Government had discussed making legal provision for same-sex marriage, no steps had been taken to develop public policies in that area.

22. Following the volcanic eruption on the island of Fogo in 2014 and the subsequent evacuation of residents, the Government was working to protect the island's environment and carry out rebuilding projects. The ongoing reconstruction efforts had been carried out with the participation of the local community, in view of the island's importance as a centre for the production of value-added crops, including grapes used to make wine for export. Contingency and rapid response plans were in place in the event of future volcanic activity on Fogo, or potential seismic activity on the island of Brava. All such activity was closely monitored, although accessing remote areas and relocating people who required evacuation could pose logistical difficulties.

23. Approximately 2 per cent of births did not take place in hospitals, but all children born in Cabo Verde could acquire Cabo Verdean nationality. A system was in place to ensure that birth registration took place in hospitals, and awareness-raising campaigns had been launched to emphasize the importance of birth registration and the consequences of not registering a child's birth for the child's enjoyment of his or her rights.

24. **The Chair** said that it would be useful to know if the Government had a framework law on mental health or any plans to reduce the rate of institutional care and improve community care.

25. **Ms. Santos Lélis** (Cabo Verde) said that there was no such framework law at present. A centre in Praia catered for the mental health needs of the population, but the Government faced budgetary constraints that limited the possibilities for improvements in community care.

26. **Mr. Zerbini Ribeiro Leão** (Country Rapporteur) said that it would be helpful to have further information on how the constitutional right to education was implemented in practice. He would appreciate up-to-date information on access to education at the primary, secondary and tertiary levels, disaggregated by geographic distribution and gender if possible. Moreover, he wished to know whether the amendments to the Basic Educational System Law had been implemented and, if so, what changes had taken place. In addition, he would appreciate specific examples of the content and tangible results of the extracurricular activities referred to in paragraph 230 of the State party's report. He would welcome further information on the structure of the primary and secondary education system. Moreover, it would be useful to know whether the quality of teaching had been maintained during the expansion of the university sector, whether any private universities existed, and whether the Government was able to monitor the quality of education in private establishments.

27. Regarding access to education, he wished to know whether children with disabilities or special educational needs were able to access the necessary and appropriate human and

financial resources at all levels of education. Information on any public policy to address the fact that many Cabo Verdean women had completed only primary schooling would be welcome. In addition, he would appreciate information on any public policies to prevent violence at school, to promote the study of science and to encourage children, particularly those experiencing social or financial difficulties, to stay on at school.

28. He would be grateful for information on the implementation of the right to culture, as defined in article 79 of the Constitution. It would also be useful to have further information on the disputes surrounding the process to make Cabo Verdean Creole an official language.

The meeting was suspended at 3.45 p.m. and resumed at 3.55 p.m.

29. **Ms. Santos Lélis** (Cabo Verde) said that she would provide the Committee with the Government's statistical yearbooks, which contained information on many topics, including education.

30. The number of universities had grown from four to nine since 2000, and a regulatory authority had been established to assess the quality of education in public and private educational establishments. Significant progress had been made in increasing the number of girls who completed their education, and a law had been introduced to provide the necessary support, monitoring and resources for children with disabilities and special educational needs at school. In order to prevent violence in schools, special courses had been developed and security measures had been introduced where necessary to ensure that both teachers and pupils were safe at school. In order to promote the study and teaching of science, it would be necessary to obtain new computer equipment and to provide grants and other funding for researchers and students in science programmes at the tertiary level.

31. The Ministry of Culture and Creative Industries had introduced numerous programmes and initiatives to improve access to culture, increase national pride and promote Cabo Verdean culture. They included providing assistance to the authors' rights organization to help it generate income; allocating funding to artists; investing in theatres and recording studios; granting State subsidies to activities that would attract tourism; establishing municipal libraries and reading rooms; increasing the number of cinema and other audiovisual productions; and protecting cultural heritage sites. The Ministry also wanted to ensure that songs in the morna style, a type of music specific to Cabo Verde, were protected and accessible to the public.

32. The Constitution required the State to promote the conditions in which Cabo Verdean Creole could be given equal status with Portuguese, but, as Creole pronunciation differed significantly between islands, no decision had as yet been taken on which variety of Creole should be used in writing. Further discussion on that subject was needed, but in the meantime the Government was conducting an experiment in providing some education in Creole instead of Portuguese.

33. **Mr. Uprimny** said that, according to information provided to the Committee, the net school enrolment rate had fallen from a respectable 90 per cent to 86 per cent in recent years. The situation was worse for girls, only 68 per cent of whom attended secondary school. Furthermore, the number of dropouts had more than doubled between 2009 and 2016. He would like to know what the reasons behind the trends were and what strategies the State party had in place to reverse them.

34. **Mr. Zerbini Ribeiro Leão** asked whether a policy was in place or planned to address the lack of skilled human resources to work with women and children with disabilities.

35. **Ms. Shin**, noting that one of the reasons behind the increase in the dropout rate among girls was pregnancy, asked whether sexual and reproductive health education was offered in schools and what educational opportunities were available for girls and boys who were not in school.

36. **Mr. Sadi** asked whether the State party was able to cover social expenditure solely through tax revenue and whether it received any international aid. He would like to know if

there were any particularly prevalent disabilities in the State party and would appreciate more detailed information on the situation regarding languages in Cabo Verde.

37. **The Chair** said that the State party's intersectoral strategic development plan on culture was very interesting because it linked culture and economic development, which was quite uncommon. She wished to know whether the updated academic curriculum would cover areas of concern such as sexual and reproductive health and sustainable development, and whether its introduction would go hand in hand with new textbooks.

The meeting was suspended at 4.15 p.m. and resumed at 4.30 p.m.

38. **Ms. Santos Lélis** (Cabo Verde) said that there had been no drop in school enrolment; in fact, it stood at approximately 95 per cent. Previously, pregnant students had had to stop their schooling, but support measures had been put in place in June 2017 to enable them to pursue their education. It was true that more boys dropped out of school than girls, usually because they had reached an age where they could work to help their families. Special programmes, including transportation services, had been rolled out to motivate boys and encourage them to remain in school. A project on inclusion and equality had been piloted in Cidade Velha and had proved successful, so the Government believed it was on the right path.

39. Before being reclassified as a middle-income country, Cabo Verde had received a fair amount of cooperation assistance, notably from the World Bank, but as was to be expected, there had subsequently been a fall in the amount of international aid received by the country.

40. With regard to the language situation in Cabo Verde, Portuguese was the language of education, public life and the media, but the population spoke Creole at home. The Unified Alphabet for the Writing of Creole had been debated at length, but much remained to be done before it was universally accepted. Ultimately, the goal was for all Cabo Verdeans to be able to use the Unified Alphabet.

41. The new academic curriculum included civic, environmental, and sexual and reproductive health education and had a strong component designed to prepare students for entry to the labour market. As for culture, the idea of protecting authors' rights was to ascribe some sort of economic value to local artistic production so that artists could earn a living from their creations. The ultimate aim was to build an arts industry that could become part of the tourism offer and, eventually, be exported.

42. **Ms. Shin** asked whether pregnant girls were segregated from their peers or were allowed to remain in the classroom.

43. **Ms. Santos Lélis** (Cabo Verde) said that pregnant girls followed classes as usual but were granted special leave when necessary.

44. **Mr. Zerbini Ribeiro Leão** said that the Committee's dialogue with the delegation had been extremely frank and open. The Committee was grateful for the information received and looked forward to receiving updated statistical data in writing so that it would be able to draft its conclusions and recommendations more precisely.

45. **Ms. Santos Lélis** (Cabo Verde) said that Cabo Verde was deeply attached to the implementation of economic, social and cultural rights and, while it had some weaknesses on that score, it was committed to doing more to guarantee the effective enjoyment of those rights. Her Government had made a huge effort to clear the backlog of reports to treaty bodies, even though the cost of translation into a United Nations language was a barrier. After a most constructive dialogue, Cabo Verde looked forward to receiving the Committee's concluding observations.

46. **The Chair** said that, now that relations had been established between the Committee and the State party, she would encourage the State party to continue on the path of cooperation with the human rights treaty bodies and to deploy greater and more wide-ranging efforts to implement the Covenant.

The meeting rose at 4.50 p.m.